

**United States Department of Labor
Employees' Compensation Appeals Board**

GLORIA J. THOMPSON, Appellant

and

**DEPARTMENT OF THE NAVY, NAVAL AIR
STATION, Jacksonville, FL, Employer**

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**Docket No. 04-524
Issued: April 27, 2004**

Appearances:
Gloria J. Thompson, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On December 9, 2003 appellant filed a timely appeal from the October 6, 2003 decision of the Office of Workers' Compensation Programs, which denied her claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.¹

ISSUE

The issue is whether appellant has established that she sustained an occupational disease of her hands or wrists while in the performance of her federal duties.

FACTUAL HISTORY

On September 9, 2002 appellant, then a 51-year-old office automation clerk, filed an occupational disease claim alleging that her employment duties as an administrative assistant for over 21 years caused bilateral hand numbness, pain, stiffness, swelling and decreased dexterity

¹ Appellant has not appealed the Office's June 5, 2003 decision pertaining to loss in wage-earning capacity. Accordingly, the Board will not review that decision.

of both wrists. Appellant first realized her carpal tunnel syndrome was caused or aggravated by her employment in August 1999. She alleged that her carpal tunnel syndrome was aggravated by a poorly designed workstation and ergonomically incorrect equipment at the Naval Hospital in San Diego, California, which the Safety Department had cited numerous times. Appellant left her employment at the employing establishment on October 6, 2001 and transferred to the Department of Veterans Affairs in Gainesville, Florida. No evidence accompanied the claim.

In an August 18, 2003 letter, the Office advised appellant that the information submitted with her claim was not sufficient to determine whether she was eligible for benefits under the Federal Employees' Compensation Act.² The Office advised appellant of the additional medical and factual evidence needed to support her claim. Appellant was requested to provide a comprehensive medical report showing a diagnosis of any condition resulting from her federal work activities, and a physician's opinion, with medical reasons for such opinion, as to how the work activities resulted in the diagnosed condition. The Office afforded appellant 30 days to submit the requested information.

In a September 6, 2003 statement, appellant described her federal duties over the past 21 years which involved typing, filing and repetitive hand motions. Appellant asserted that, when she was employed at the Naval Hospital in San Diego, she had complained repeatedly about an ergonomically incorrect workstation. She was evaluated by a workers' compensation physician, Dr. Dorsey, and Dr. Anderson, an orthopedic specialist, who diagnosed carpal tunnel syndrome and advised her that she required surgery to correct the problem. She related that a Navy orthopedic surgeon, Dr. Gallentine, also recommended surgery to help with the pain and numbness. Submitted were a November 7, 2002 chart from the Department of Orthopedics, Naval Hospital, Charleston, South Carolina, showing ulnar nerve readings for patient number 432312598; a page from Office case number 060721619, which contained a note to appellant advising that she should file a new occupational disease claim with the Department of the Navy, San Diego, California; an attached copy of Dr. Dorsey's reports which noted clinical findings of cubital tunnel syndrome; and a copy of a July 21, 2000 email of an Annual Industrial Hygiene Survey, which noted that the front desk personnel had ergonomic-related symptoms and one person was being treated at the Occupational Health Unit.

By decision dated October 6, 2003, the Office denied appellant's claim, finding that she had not established fact of injury.

LEGAL PRECEDENT

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally

² 5 U.S.C. §§ 8101-8193.

related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition, for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition, for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

ANALYSIS

The Board finds that appellant did not submit sufficient evidence to establish that she sustained an injury in the performance of duty. Appellant did not submit any medical evidence to establish a medical diagnosis concerning her hand or wrist conditions. Although she did submit a factual statement identifying the employment factors, which allegedly caused or contributed to her condition and the July 21, 2000 email of an Annual Industrial Hygiene Survey which lends support to her allegation that her work site may have had some ergonomic issues, she did not submit any medical evidence establishing that her federal employment work factors were the cause of her hand or wrist condition. Although appellant noted that various physicians had diagnosed conditions concerning her hands or wrists, the record is devoid of a narrative report which provides a history of appellant's condition or contains a rationalized medical opinion relating appellant's present condition to her employment as of August 1, 1999. The only medical evidence submitted consists of a November 7, 2002 chart note from the Department of Orthopedics, Naval Hospital, Charleston, South Carolina showing ulnar nerve readings for patient number 432312598. Even if appellant is the referenced patient, there is no medical explanation addressing how appellant's employment duties in August 1999 resulted in November 7, 2002 ulnar nerve findings.

The Office notified appellant on August 18, 2003 of the evidence required to establish her claim. Appellant's burden of proof includes the necessity to submit medical evidence establishing that the claimed condition is causally related to implicated employment factors. As appellant has not submitted such evidence, she has not met her burden of proof in establishing

³ Gary J. Watling, 52 ECAB 278 (2001); Kathryn A. Tuel-Gillem, 52 ECAB 451 (2001).

⁴ See Leslie C. Moore, 52 ECAB 132 (2000); Victor J. Woodhams, 41 ECAB 345, 351-52 (1989).

her claim. Accordingly, the Board finds that appellant has failed to establish a *prima facie* claim for compensation.⁵

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she developed an occupational disease as a result of her employment duties.

ORDER

IT IS HEREBY ORDERED THAT the October 16, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 27, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁵ See *Richard A. Weiss*, 47 ECAB 182 (1995).