

By letter dated January 14, 2004, the Office requested detailed factual and medical information from appellant. Specifically, a description of the employment-related activities which she believed contributed to her condition and submission of a medical report from her treating physician which described her symptoms, results of examinations and tests (including Phalen's and Tinel's signs and results of any nerve conduction or electromyogram studies); diagnosis; the treatment provided; the effect of treatment; and the doctor's opinion, with medical reasons, on the cause of her condition. The Office allotted her 30 days to submit the requested information. Appellant did not respond.

By decision dated February 14, 2004, the Office denied appellant's claim for failure to establish fact of injury. The Office found that appellant failed to submit factual evidence to support the frequency or duration of her exposure to the claimed employment factor of typing, and she failed to submit medical evidence to support the presence of a medical condition which had been diagnosed in connection with the claimed employment factor.

LEGAL PRECEDENT

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.¹

ANALYSIS

In this case, appellant alleged that her wrist conditions developed as a result of typing constantly at work. The Office denied her claim, finding the evidence insufficient to establish that she sustained a work-related injury because there was no factual evidence to support duration or frequency of typing or any medical evidence to indicate the nature of her alleged medical condition. The Office noted that appellant failed to submit any evidence to support that she sustained an injury as a result of the claimed employment factor.

The Board has carefully reviewed the record and finds that there is insufficient factual or medical evidence of record to support fact of injury as alleged. The Office advised appellant that, as of the date of its February 14, 2003 decision, the record was devoid of any evidence to satisfy her burden of proof. Appellant was advised, in an Office letter dated January 14, 2004, that she had the burden of proof to establish that she was injured as a result of her work-related duties. She was informed that she needed to submit additional factual evidence regarding employment duties giving rise to the claimed injury and reasoned medical evidence explaining how employment duties caused her claimed injury. Appellant was advised to provide a detailed

¹ *Robert A. Boyle*, 54 ECAB ____ (Docket No. 02-2177, issued January 27, 2003); *Nicolette R. Kelstrom*, 54 ECAB ____ (Docket No. 03-275, issued May 14, 2003); *Luis M. Villanueva*, 54 ECAB ____ (Docket No. 03-977, issued July 1, 2003).

medical report from her treating physician, which discussed the nature of her injury and how it was causally related to her work duties. Because she did not provide the requested factual information or a reasoned medical opinion as requested by the Office to support her claim for compensation within the allotted time frame, the Board finds that appellant has not met her burden of proof in establishing her claim.²

CONCLUSION

The Board finds that appellant failed to meet her burden of proof in establishing that she sustained an injury arising out of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the February 14, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 10, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

² The Office received additional evidence from appellant subsequent to its February 14, 2004 decision. On appeal appellant pointed out that she had submitted information pertaining to her claim. However, the Board does not have jurisdiction to review evidence that was not before the Office at the time it issued its final decision. 20 C.F.R. § 501.2(c). However, this does not preclude appellant from submitting evidence along with a request for reconsideration to the Office if she wishes to pursue her claim. 20 C.F.R. § 10.606(b) (1999).