

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

MARK A. DILLEHAY, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Phoenix, AZ, Employer**

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**Docket No. 04-1587
Issued: November 8, 2004**

Appearances:
Mark A. Dillehay, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On June 4, 2004 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated March 19, 2004, which denied her occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish that he developed a right hand, arm, neck or shoulder condition while in the performance of duty.

FACTUAL HISTORY

On December 11, 2003 appellant, then a 50-year-old letter carrier, filed an occupational disease claim alleging that he developed tingling in the thumb and two forefingers of the right hand, with pain in the neck and shoulder, as a result of performing his letter carrier duties. His work included repetitive motion and fingering mail and carrying a letter bag on his right shoulder. Appellant first became aware of his condition and its relation to his work in

August 2003. He did not stop work. In a separate statement dated December 24, 2003, Mr. Brisbon, appellant's supervisor, indicated that appellant's job did not differ from the official description and indicated that he had not used any leave other than the day he visited a physician.

Appellant submitted a narrative statement regarding his condition and a report from Dr. Edward A. Carrington, an attending Board-certified family practitioner. On December 11, 2003 appellant related that in November 2003 he began to feel numbness in his thumb and the forefingers of his right hand, which worsened over several months. He initially saw a chiropractor, who determined that he had three vertebrae in his neck with degenerative discs. Appellant did not undergo treatment and his pain worsened such that he began to see another chiropractor. He indicated that chiropractic treatment helped, with the exception of his fingers. Appellant experienced increasing finger numbness and his forearm and shoulder became more painful. After seeing Dr. Carrington, appellant indicated that he probably had carpal tunnel syndrome (CTS), which was due to the repetitive motion of fingering and casing mail.

In a December 17, 2003 duty status report, Dr. Carrington diagnosed CTS with muscle atrophy and advised that it was due to repetitive motion with the fingers of the right hand and carrying mail. He noted that appellant could perform light duty with limited use of the right hand.

The employing establishment controverted the claim by letter dated December 19, 2003.

On January 9, 2004 the Office advised appellant that the evidence submitted was insufficient to establish his claim and requested that he submit additional supportive factual and medical evidence. A copy of the letter was also provided to the employing establishment.

In a February 5, 2004 report, Dr. Carrington advised that appellant had "severe carpal tunnel syndrome." He indicated that appellant could not perform more than two hours of fingering mail daily.

By decision dated March 19, 2004, the Office denied appellant's claim, as the medical evidence was insufficient to establish that his condition was caused by the implicated employment factors. The Office accepted that he performed the duties of a letter carrier, which included repetitive motions of fingering and casing mail; however, the medical evidence did not establish that his carpal tunnel syndrome was due to the claimed employment factors.

LEGAL PRECEDENT

In order 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 diagnosed condition is causally related to the employment factors identified

by the claimant.¹ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.²

To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by appellant as causing his condition and taking these factors into consideration as well as findings on examination of appellant and his medical history, state whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion.³

ANALYSIS

Appellant filed an occupational disease claim alleging that his work for the employing establishment caused or aggravated his right hand, arm, neck and shoulder conditions. He attributed his conditions to the repetitive motion caused by fingering mail and carrying his letter bag. The Office accepted his duties as a letter carrier, but found that appellant had not presented sufficient medical evidence to establish that his conditions arose from the accepted employment. The question, therefore, is whether appellant's employment duties caused or aggravated the right hand, arm, neck and shoulder conditions for which he seeks compensation.

In a December 17, 2003 report, Dr. Carrington indicated that appellant's CTS and muscle atrophy were caused by repetitive motion with fingering of the right hand and by carrying mail. However, he did not provide any explanation of the medical processes by which these employment activities caused or contributed to appellant's condition. Without any reasoning to support the stated conclusion, this medical report is of reduced probative value and insufficient to meet appellant's burden of proof.⁴

In a February 5, 2004 report, Dr. Carrington indicated that appellant had severe CTS and advised no more than two hours of fingering mail a day. He did not provide any discussion of his medical findings or address causal relationship. Thus, this report does not support that appellant sustained a work-related occupational disease.

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.⁵ To establish causal relationship he must submit a physician's report, in which the physician reviews what factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and

¹ *Soloman Polen*, 51 ECAB 341 (2000); *see also Victor J. Woodhams*, 41 ECAB 345 (1989).

² *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Supra* note 1.

³ *Donald W. Long*, 41 ECAB 142, 146-47 (1989).

⁴ *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

⁵ *Robert Broome*, 55 ECAB ____ (Docket No. 04-93, issued February 23, 2004).

his medical history, state whether these employment factors caused or aggravated his diagnosed condition and present medical rationale in support of his opinion.⁶ Appellant failed to submit such evidence and, therefore, failed to discharge his burden of proof.⁷

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he developed a right hand, arm, neck or shoulder condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 19, 2004 is affirmed.

Issued: November 8, 2004
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁶ *Gary J. Watling*, 52 ECAB 278 (2001).

⁷ Following the issuance of the Office's March 19, 2004 decision, appellant submitted additional evidence. However, the Board may not consider such evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from requesting the Office to reconsider such evidence.