

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

DARLENE L. MIXON, Appellant

and

**U.S. POSTAL SERVICE, TOWER GROVE
STATION, St. Louis, MO, Employer**

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**Docket No. 04-1845
Issued: November 15, 2004**

Appearances:
Darlene L. Mixon, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member

JURISDICTION

On July 14, 2004 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decisions dated February 26 and April 15, 2004 finding that she had not established that she developed carpal tunnel syndrome due to her federal employment. 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 her burden of proof in establishing that she developed carpal tunnel syndrome due to factors of her federal employment.

FACTUAL HISTORY

On December 17, 2003 appellant, then a 43-year-old window clerk, filed an occupational disease claim alleging that on January 12, 2001 she first became aware of pain and numbness in her hands. Appellant first attributed this condition to her employment in February 2001. She asserted that she developed pain and numbness in her hands due to the use of the letter sorter machine and computer in the performance of duty. In support of her claim, appellant submitted

an electromyogram (EMG) and nerve conduction study from Dr. Duane Turpin, an osteopath, who found moderate to severe median nerve compression at the wrists bilaterally and that the studies were compatible with a diagnosis of carpal tunnel syndrome.

The Office requested additional factual and medical evidence in a letter dated January 13, 2004. Appellant responded on January 10, 2004 and attributed her condition to her employment duties.

By decision dated February 26, 2004, the Office denied appellant's claim finding that she failed to submit the necessary medical opinion evidence to establish a causal relationship between her diagnosed condition of carpal tunnel syndrome and her accepted employment factors.

Appellant requested reconsideration on March 19, 2004. In support of her request, appellant submitted treatment notes from a physical therapist. As well as a February 12, 2001 report from Dr. Turpin describing her symptoms of bilateral pain and numbness in her hands for six to seven months. He did not mention appellant's employment duties and diagnosed suspected bilateral carpal tunnel syndrome.

Dr. Peggy Boyd Taylor, an osteopath, completed a report received by the Office on April 5, 2004. She noted appellant's federal job titles and stated that these positions required extensive keyboarding with both hands. Dr. Taylor described appellant's symptoms of numbness and tingling in both hands as well as findings on examination. She stated, "[Appellant] reports the pain is intensified at work when keyboarding...." Dr. Taylor also noted, "[Appellant] would certainly benefit at this time for job placement to a position with less keyboarding or hand manipulations." She diagnosed bilateral carpal tunnel syndrome worse on the right than the left.

By decision dated April 15, 2004, the Office denied modification of its prior decision finding that Dr. Taylor's reports were not sufficient to establish appellant's claim as she failed to provide an opinion on the causal relationship between appellant's diagnosed carpal tunnel syndrome and her employment duties of keyboarding.

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 of existence of a the disease or condition for which compensation is claimed; (2) a factual statement identifying the 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. The medical opinion 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.¹

¹ *Solomon Polen*, 51 ECAB 341, 343-44 (2000).

ANALYSIS

Appellant has submitted evidence of a medical condition, carpal tunnel syndrome. She has also implicated her employment duty of keyboarding as both a letter sorter machine clerk and window clerk. However, appellant has not submitted the necessary medical opinion evidence to establish a causal relationship between her condition and her employment duties.

Appellant submitted two reports from Dr. Turpin, an osteopath, diagnosing carpal tunnel syndrome. However, Dr. Turpin neither noted appellant's employment duties nor implicated these duties as causing or contributing to her carpal tunnel syndrome. Dr. Turpin's reports are not sufficient to establish appellant's occupational disease claim.

Appellant also submitted notes from a physical therapist. As a physical therapist is not within the definition of a physician under the Federal Employees' Compensation Act,² these notes are not medical evidence and are of little probative value in establishing appellant's occupational disease claim.³ As causal relationship is a medical question that can only be resolved by medical opinion evidence, the reports of the physical therapist cannot be considered by the Board in adjudicating the issue in the present case and, therefore, are not discussed in this decision of the Board.⁴

Dr. Taylor, an osteopath, completed a report received by the Office on April 5, 2004 listing appellant's job duty of extensive keyboarding with both hands and diagnosing bilateral carpal tunnel syndrome worse on the right than the left. She stated that appellant reported that the pain is intensified at work when keyboarding. This statement is not sufficient to meet appellant's burden of proof. The Board has held that the fact that work activities produced pain or discomfort revelatory of an underlying condition does not raise an inference of causal relation.⁵ Dr. Taylor also noted, "[Appellant] would certainly benefit at this time for job placement to a position with less keyboarding or hand manipulations." The Board has consistently held that the fear of future injury is not compensable.⁶ Dr. Taylor did not offer an opinion that appellant's keyboarding activities caused or contributed to the development of her diagnosed condition of carpal tunnel syndrome and her report is not sufficient to meet appellant's burden of proof.

CONCLUSION

The Board finds that appellant has not submitted any medical evidence discussing the causal relationship between her diagnosed carpal tunnel syndrome and her employment duty of

² 5 U.S.C. §§ 8101-8193, 8101(2); *Jane A. White*, 34 ECAB 515 (1983).

³ *Arnold A. Alley*, 44 ECAB 912, 921 (1993).

⁴ *Id.*

⁵ *Jimmy H. Duckett*, 52 ECAB 332, 336 (2001).

⁶ *Calvin E. King*, 51 ECAB 394, 400 (2000).

keyboarding. Due to this lack of medical evidence appellant failed to establish her claim for occupational disease.

ORDER

IT IS HEREBY ORDERED THAT the April 15 and February 26, 2004 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 15, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member