

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

GALE C. SZABO, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Baltimore, MD, Employer**

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**Docket No. 04-1397
Issued: September 15, 2004**

Appearances:
Gale C. Szabo, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On May 3, 2004 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated April 1, 2004 denying her claim that she sustained employment-related carpal tunnel syndrome. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained carpal tunnel syndrome in the performance of duty.

FACTUAL HISTORY

On January 5, 2004 appellant, then a 36-year-old mailhandler, filed an occupational disease claim alleging that she sustained right carpal tunnel syndrome due to performing repetitive movement tasks at work such as pulling letter trays and cutting letter tray straps. She stated that she first realized on March 28, 2000 that her disease was caused or aggravated by her employment. Appellant did not stop work and indicated that she continued to be exposed to the

conditions which caused her disease. Appellant later claimed that she sustained left carpal tunnel syndrome due to performing the same duties.

In support of her claim, appellant submitted a March 28, 2000 report of Dr. Antonio Y. Medina, an attending Board-certified orthopedic surgeon, who indicated that appellant reported having numbness and tingling in her hand since she started working for the employing establishment and asserted that she had previously been diagnosed with mild carpal tunnel syndrome. He stated that appellant had positive Tinel's and Phalen's tests and noted that "she definitely has [carpal tunnel syndrome]." In a report dated May 16, 2000, Dr. Medina stated that appellant continued to complain of pain, numbness and tingling in her right hand. He recommended that appellant obtain additional diagnostic testing. The findings of an electromyogram and nerve conduction studies performed on June 16, 2000 contained a diagnosis of right carpal tunnel syndrome and mild left carpal tunnel syndrome. In a report dated October 11, 2001, Dr. Medina stated that appellant reported pain and numbness in the left hand as well as symptoms in her left wrist. He indicated that examination revealed numbness in the medial nerve distribution and cramping pain in the hand and stated, "I told her that this might be related to carpal tunnel syndrome." In a report dated December 29, 2003, Dr. Medina stated that appellant visited his office due to continued pain and numbness and tingling in her right arm. He recommended that appellant undergo a right carpal tunnel release.

By decision dated April 1, 2004, the Office denied appellant's claim that she sustained carpal tunnel syndrome in the performance of duty. The Office determined that appellant filed a timely claim and established the existence of the claimed employment factors, but that she did not submit sufficient medical evidence to show that she sustained an upper extremity condition due to those factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of 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 related to the employment injury.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

Section 8122(a) of the Act states, "[a]n original claim for compensation for disability or death must be filed within 3 years after the injury or death."⁴ Section 8122(b) provides that, in latent disability cases, the time limitation does not begin to run until the claimant is aware, or by

¹ 5 U.S.C. § 8101 *et seq.*

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ 5 U.S.C. § 8122(a).

the exercise of reasonable diligence should have been aware, of the causal relationship between her employment and the compensable disability.⁵ The Board has held that if an employee continues to be exposed to injurious working conditions after such awareness, the time limitation begins to run on the last date of this exposure.⁶

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.⁷

ANALYSIS

The Board notes that appellant filed a timely claim alleging that she sustained carpal tunnel syndrome due to employment factors. She filed an occupational disease claim on January 5, 2004 alleging that she sustained right carpal tunnel syndrome due to performing repetitive tasks at work and shortly thereafter claimed that she also sustained left carpal tunnel syndrome due to performing the same tasks. Appellant stated that she first realized on March 28, 2000 that her disease was caused or aggravated by her employment. She did not stop work and the evidence reveals that she continued to be exposed to these employment factors through January 2004 and beyond that time period. As appellant continued to be exposed to injurious working conditions after she became aware of the possible causal relationship between her employment and the claimed disability, the time limitation provisions of the Act did not begin to toll and she filed a timely claim.⁸

Appellant did not, however, submit sufficient medical evidence to show that she sustained carpal tunnel syndrome due to the accepted employment factors of performing repetitive motion tasks at work. In support of her claim, she submitted various reports of

⁵ 5 U.S.C. § 8122(b).

⁶ *Charlene B. Fenton*, 36 ECAB 151, 157 (1984); *Gladys E. Olney*, 32 ECAB 1643, 1645 (1982).

⁷ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁸ See *supra* notes 5 through 7 and accompanying text.

Dr. Medina, an attending Board-certified orthopedic surgeon. In reports dated May 16, 2000 and December 29, 2003, Dr. Medina detailed appellant's right upper extremity symptoms and, in a report dated October 11, 2001, he detailed her left upper extremity symptoms.⁹ Dr. Medina indicated that appellant had carpal tunnel syndrome in her right hand and suggested that she might also have the same condition in her left hand.¹⁰ However, he did not provide any opinion on the cause of appellant's upper extremity conditions. Although he noted that appellant reported having hand symptoms since she started working for the employing establishment in her present work location, he did not provide a clear opinion that she sustained any condition due to employment factors. Dr. Medina's reports are of limited probative value on the relevant issue of the present case in that they do not contain an opinion on causal relationship and the Office properly denied her claim.¹¹

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained carpal tunnel syndrome in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 1, 2004 is affirmed.

Issued: September 15, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁹ In a report dated March 28, 2000, Dr. Medina indicated that appellant reported having numbness and tingling in her hand, but he did not specify whether her right or left hand was symptomatic.

¹⁰ The findings of an electromyogram and nerve conduction studies performed on June 16, 2000 contained a diagnosis of right carpal tunnel syndrome and mild left carpal tunnel syndrome.

¹¹ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).