

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

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**DAVID A. GREGSON, Appellant**

**and**

**U.S. POSTAL SERVICE, PROCESSING  
& DISTRIBUTION CENTER, Providence, RI,  
Employer**

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**Docket No. 05-38  
Issued: March 15, 2005**

*Appearances:*  
*David A. Gregson, 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  
WILLIE T.C. THOMAS, Alternate Member

**JURISDICTION**

On September 28, 2004 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated August 11, 2004 in which an Office hearing representative affirmed the Office's December 29, 2003 decision denying appellant's claim for right carpal tunnel syndrome. 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 met his burden of proof in establishing that he sustained an injury in the performance of duty.

**FACTUAL HISTORY**

On September 25, 2003 appellant, then a 39-year-old clerk, filed an occupational disease claim alleging that he sustained carpal tunnel syndrome as a result of his employment factors. He stated that he was initially aware of his condition on September 15, 2003 and first realized it

was caused by his employment on September 23, 2003. Appellant notified his supervisor on September 23, 2003. From September 29, 2003 appellant worked in a limited-duty position in accordance with his physician's instructions.

In a letter dated October 7, 2003, the Office advised appellant that the evidence of file was insufficient to establish his claim for compensation benefits and advised him of the type of factual and medical evidence needed to establish his claim and requested that he submit such evidence. The Office particularly requested that appellant submit a comprehensive medical report from his treating physicians which described his symptoms; results of examinations and tests (including Phalen's Test and Tinel's signs and results of any nerve conduction or electromyogram (EMG) studies); diagnosis; the treatment provided; the effect of treatment; and the doctor's opinion, with medical reasons, on the cause of appellant's condition and an explanation of how specific work factors contributed to or caused his condition. Appellant was allotted 30 days within which to submit the requested evidence.

In a duty status report dated September 29, 2003, Dr. Philippe S. Cote, appellant's attending physician and a Board-certified orthopedic surgeon, checked a box "yes" indicating that appellant's right-hand numbness was caused by his employment and placed him off work.

In a report dated September 30, 2003, Dr. J. Denier, a Board-certified radiologist, stated that he examined appellant on that day for a right-hand injury and diagnosed repetitive motion neuropathy of the forearm and hand as a result of repetitive keyboard operations. He noted negative Tinel's sign and Phalen's Test. Dr. Denier placed appellant on light duty for two weeks.

On September 30, 2003 appellant accepted a modified limited-duty job offer which allowed for left-handed letter-pitching duties.<sup>1</sup> In a report dated October 7, 2003, Dr. Gary A. L'Europa, Board-certified in psychiatry and neurology, stated that he examined appellant on October 6, 2003 and concluded that on the basis of neurological and nerve conduction tests and a needle examination there was no evidence of cervical radiculopathy or entrapment neuropathy. In an associated report, Dr. L'Europa stated that there was no evidence of right carpal tunnel syndrome. In an attending physician's report dated October 9, 2002, Dr. L'Europa stated that appellant had right upper extremity pain but that diagnostic tests were normal.

In a duty status report dated October 22, 2003, Dr. Cote reported that appellant had carpal tunnel syndrome and was restricted from using his right arm. In an attending physician's report dated December 17, 2003, Dr. Cote stated that appellant had "mononeuritis of upper limb and mononeuritis multiplex: carpal tunnel syndrome and cubital tunnel syndrome." He checked a box "yes" indicating that appellant's condition was caused or aggravated by his employment and continued his restrictions of nonuse of the right arm. In a duty status report also dated December 17, 2003, Dr. Cote stated that appellant had right carpal tunnel syndrome and restricted his duties to left arm use only.

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<sup>1</sup> Appellant began his limited-duty position on September 29, 2003.

By decision dated December 29, 2003, the Office denied appellant's claim on the grounds that the evidence failed to support that a medical condition arose as a result of the accepted incident.

In a report dated December 17, 2003 and received by the Office on January 19, 2004, Dr. Cote stated that on October 22, 2003 appellant had a positive Tinel's sign over the right carpal tunnel. A subsequent test on that day revealed a negative Tinel's sign. He attributed appellant's condition to multiple years of repetitive motions of keying data in three separate machines. On January 9, 2004 appellant requested an oral hearing. In a narrative report dated February 18, 2004, Dr. Cote stated that appellant's recurring right carpal tunnel syndrome and right cubital tunnel syndrome were of decreasing severity. He noted that appellant related a 95 percent decrease in symptoms attributable to limited-duty assignment. In a duty status report dated February 18, 2004, Dr. Cote restated his December 17, 2003 report, noting that appellant had carpal tunnel syndrome, was still working, but was restricted to using his left arm.

An oral hearing was held on May 18, 2004 and, in a decision dated August 11, 2004, the hearing representative affirmed the Office's December 29, 2003 decision denying his claim on the grounds that the evidence failed to establish that appellant sustained carpal tunnel syndrome as a result of identified employment factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup>

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, an appellant 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. 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.<sup>4</sup>

### **ANALYSIS**

It is not disputed that appellant's job required him to do repetitive keying on the letter sorting machine for seven years, the flat sorting machine for three years, and the small postal

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Solomon Polen*, 51 ECAB 341 (2000).

bundle sorter machine for the last four and a half years. Consequently, the Office found that appellant's occupational exposure occurred as alleged. However, the Office found that the medical evidence submitted was insufficient to establish that the accepted exposure resulted in an injury or condition causally related to any specific workplace factors.

The Board finds that the medical evidence is insufficient to establish that employment activities caused or aggravated a diagnosed condition. For example, Dr. Cote did not provide any rationale to explain how and why the repetitive keying on the various machines caused, precipitated or aggravated appellant's medical condition. Although Dr. Cote stated that appellant had carpal tunnel syndrome based on an October 22, 2003 positive Tinel's sign and checked boxes "yes" on form reports to support causal relationship, he did not provide any medical reasoning to support his conclusion. The Board has held that, when a physician's opinion supporting causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish a causal relationship.<sup>5</sup> In his September 30, 2003 report, Dr. Denier diagnosed repetitive motion neuropathy as a result of repetitive keying. However, he did not provide any reasoning to support his opinion that repetitive keying would cause or aggravate a particular condition. Dr. L'Europa did not support causal relationship but instead indicated that diagnostic tests were normal and opined that appellant did not have right carpal tunnel syndrome.

An award of compensation may not be based on surmise, conjecture or speculation. The mere fact that a disease or condition manifests itself or worsens during a period of employment<sup>6</sup> or that work activities produce symptoms revelatory of an underlying condition<sup>7</sup> does not raise an inference of causal relationship between the condition and the employment factor. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his federal employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.<sup>8</sup> As appellant failed to provide rationalized medical evidence establishing that he sustained carpal tunnel syndrome as a result of his federal employment, the Office properly denied appellant's claim for compensation.

### CONCLUSION

Appellant has not met his burden of proof to establish that he sustained a work-related injury while in the performance of duty.

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<sup>5</sup> *Gary J. Watling*, 52 ECAB 2878 (2000).

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

<sup>8</sup> *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated August 11, 2004 is affirmed.

Issued: March 15, 2005  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member