

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

A.G., Appellant)

and)

**DEPARTMENT OF HOUSING & URBAN)
DEVELOPMENT, LOS ANGELES FIELD)
OFFICE, Los Angeles, CA, Employer)**

**Docket No. 06-979
Issued: August 2, 2006**

Appearances:
A.G., *pro se*
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge

JURISDICTION

On March 28, 2006 appellant filed a timely appeal from a January 5, 2006 decision of the Office of Workers' Compensation Programs denying her traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501(d)(3), the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant has established that she sustained bilateral wrist tendinitis and cysts in the performance of duty.

FACTUAL HISTORY

On November 16, 2005 appellant, then a 55-year-old project manager, filed a traumatic injury claim (Form CA-1) alleging that, on an unspecified date in September 2005, she sustained bilateral wrist tendinitis and cysts when trying to prevent a rolling file cabinet from moving. Coworker Sylvia Meeks stated that, on an unspecified date in September 2005, she rolled open the doors of the filing section, then heard appellant inside. She then observed appellant standing between the file cabinets "with hands extended up against the tray that lets out." In a

November 22, 2005 letter, the employing establishment controverted the claim as appellant did not file her claim within 30 days or submit medical evidence.

In a December 2, 2005 letter, the Office advised appellant of the type of additional evidence needed to establish her claim, including additional facts regarding the time, place and the manner of the alleged September 2005 incident and a rationalized statement from her physician explaining how and why that incident would cause the claimed bilateral wrist injuries. The Office noted that, as appellant had not filed a claim within 30 days of the September 2005 injury, she was not entitled to continuation of pay.

Appellant responded by December 12, 2005 letter, asserting that she delayed filing her claim as she did not have any visible injuries or wrist pain until days or weeks after the September 2005 injury. She first sought treatment on September 27, 2005.¹

Appellant also submitted medical evidence. In November 28, 2005 reports, Dr. Derek F. Williams, an attending Board-certified family practitioner, noted evaluating appellant for possible ganglion cysts of both wrists. Dr. Walter F. O'Brien, an attending Board-certified orthopedic surgeon, submitted a December 6, 2005 report relating appellant's account of "lots of computers/filing at work, filing cabinet hit wrists and hyperextended." He observed "pea size cysts over wrists" and diagnosed bilateral extensor tendinitis with tenosynovial cysts. Dr. O'Brien opined that "this condition [was] work related."

By decision dated January 5, 2006, the Office denied appellant's claim on the grounds that causal relationship was not established. The Office accepted that the September 2005 incident occurred as alleged. However, the Office found that the medical evidence submitted did not explain how and why this incident would cause the claimed wrist conditions.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or 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 filed within the applicable time limitation; that an injury was sustained while 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been

¹ Appellant did not submit any treatment records dated September 27, 2005.

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ See *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident that is alleged to have occurred.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

ANALYSIS

Appellant claimed that, on an unspecified date in September 2005, she sustained bilateral wrist injuries when trying to prevent a filing cabinet from rolling. The Office accepted that this incident occurred as alleged, thus finding that appellant had met the first component of this burden of proof by establishing the alleged injurious incident as factual. The Office found, however, that appellant failed to meet the second element of her burden of proof, as she submitted insufficient medical evidence to establish that the incident caused an injury.

In support of her claim, appellant submitted November 28, 2005 reports from Dr. Williams noting possible ganglion cysts of both wrists. However, Dr. Williams did not address causal relationship. Dr. O'Brien submitted a December 6, 2005 report relating appellant's account of a filing cabinet striking and hyperextending her wrists, as well as "lots of computers/filing at work." He diagnosed bilateral extensor tendinitis with tenosynovial cysts. Although Dr. O'Brien opined that "this condition [was] work related," he did not provide medical rationale explaining a causal relationship between the September 2005 incident and the diagnosed tendinitis and cysts. Without such rationale, his opinion is insufficient to establish causal relationship in this case.⁷ Also, Dr. O'Brien mentioned filing and computer use, work factors that have not been accepted as factual. It is thus unclear as to whether he attributed appellant's wrist conditions to the accepted incident or to nonaccepted work factors. This vagueness further reduces the probative value of his opinion.⁸

The Board notes that, in a December 2, 2005 letter, the Office advised appellant of the type of additional evidence needed to establish her claim, including a rationalized statement from her physician discussing any causal relationship between the September 2005 incident and the claimed wrist conditions. However, appellant did not submit such evidence.

Consequently, appellant failed to establish that she sustained bilateral wrist tendinitis with cysts, as she submitted insufficient rationalized medical evidence explaining how and why the accepted September 2005 incident would cause the claimed conditions.

⁵ *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ *Deborah L. Beatty*, 54 ECAB 340 (2003).

⁷ *Deborah L. Beatty*, *supra* note 6.

⁸ *Robert Broome*, 55 ECAB ____ (Docket No. 04-93, issued February 23, 2004).

CONCLUSION

The Board finds that appellant has not established that she sustained bilateral wrist tendinitis and cysts in the performance of duty as alleged.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 5, 2006 is affirmed.

Issued: August 2, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board