United States Department of Labor
Employees' Compensation Appeals Board

J.A., Appellant	)	
and	)	**Docket No. 06-1722**
	)	**Issued: December 18, 2006**
U.S. POSTAL SERVICE, POST OFFICE, Indianapolis, IN, Employer	)	

Appearances:
Steven Scavuzzo, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 21, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' hearing representative's decision dated May 2, 2006, which affirmed the October 14, 2005 denial of her claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the issues in this case.

ISSUE

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

FACTUAL HISTORY

On July 11, 2005 appellant, then a 51-year-old mail handler, filed an occupational disease claim alleging that she had bilateral carpal tunnel syndrome (CTS) causally related to her

employment. She first became aware of the injury and its relation to her work on June 20, 2005. Appellant did not stop work.[1]

In a July 11, 2005 statement, appellant alleged that she injured her right wrist on November 7, 2000 and as a result she put extra work on her left wrist. On January 10, 2002 she tripped over a mat at work and struck her left wrist on something. Appellant noted that her job duties now included taking flats out of tubs, which aggravated her wrist. On Mondays, Tuesdays and Fridays she worked on skids of marriage mail which involved lots of movements of the wrists. Appellant stated that a magnetic resonance imaging (MRI) scan of June 20, 2005 showed that she had bilateral CTS and that her physician was recommending surgery.

By letter dated August 3, 2005, the Office advised appellant that additional factual and medical evidence was needed. The Office allotted appellant 30 days within which to submit the requested information.

In a December 26, 2000 report, Dr. Nicole Einhorn, a Board-certified orthopedic surgeon, diagnosed pisotriquetral arthritis and flexor carpi ulnaris (FCU) tendinitis. She advised that appellant could perform her regular duties with the exception of lifting the heaviest of bins. In a separate disability certificate of the same date, Dr. Einhorn diagnosed flexo-ulnar triquetrian tenosynovitis of the right wrist and prescribed physical therapy. In a January 2, 2001 report, she indicated that appellant presented with impaired postural stabilization/neurodynamics of the right upper extremity with localized irritation at the right wrist ulnar border during daily activity. Dr. Einhorn repeated the previous diagnosis.

In an August 26, 2005 statement, appellant noted that her employment duties included twisting, pushing and repetitious motion when handling the mail. She also performed duties, including sorting, collecting and dispatching mail for approximately six hours a day. The remainder of appellant's day was spent gathering equipment to put the mail in. Her outside activities included approximately one and a half to two hours per week of yard work and caring for three dogs.

In a July 18, 2005 report, Dr. Larry R. Brazley, Board-certified in internal medicine, noted that appellant had previous work-related back injuries in 1989 and 2001. A prior electromyography (EMG) scan revealed bilateral CTS. Dr. Brazley opined that appellant's "bilateral carpal tunnel as well as the lumbar degenerative disc at L5 and the sciatica certainly appear to be work related."

September 6, 2001 and March 12, 2002 form reports from physicians with illegible signatures noted appellant's work status. A November 7, 2000 progress note diagnosed right wrist strain and indicated that appellant related that "she was at work she was moving an object." Appellant noted pain from her fingers to her wrist.

[1] The record reflects that appellant has several other claims, including a claim for an accepted right elbow and right wrist strain in Office File No. 092003493. The record reflects that that case was previously on appeal and on January 3, 2003, the Board affirmed prior Office decisions that denied appellant's recurrence of disability claim. Docket No. 02-1843.

In an August 31, 2005 duty status report, a physician, whose signature is illegible,[2] indicated that appellant had CTS in both wrists and prescribed light-duty restrictions. A limited-duty assignment dated September 22, 2005 included restrictions on continuous lifting to two pounds or intermittent lifting to five pounds, intermittent standing for one hour per day, intermittent walking of up to one hour per day, and no climbing, kneeling, stooping, twisting, pulling, pushing or grasping.

By decision dated October 14, 2005, the Office denied appellant's claim for compensation on the grounds that the medical evidence did not establish that her carpal tunnel syndrome was related to established work activities. Appellant did not provide a physician's well-reasoned opinion supported by objective findings explaining how the diagnosed bilateral CTS was related to factors of her employment.

By letter dated November 10, 2005, appellant's representative, requested a hearing.[3] By letter dated March 10, 2006, he withdrew the request for a hearing and requested a review of the written record. Appellant's representative indicated that he would submit further documentation by April 2, 2006. In a March 13, 2006 statement, appellant alleged that she had an accepted claim for a March 11, 2000 injury to her right wrist. After the injury, she did not use her right hand, so she had to do her work with her left hand. Appellant further described her duties at work and the pain caused to her wrists. She noted that the pain continued when driving even when she was not at work and when trying to do housework.

The Office also received copies of previously submitted medical evidence. A September 6, 2001 physician's progress note from an unidentified health care professional associated with Saint Margaret Mercy Healthcare stated that appellant complained of bilateral elbow pain down to her fingers, with numbness and tingling in the fingers. The diagnosis was bilateral elbow/wrist pain. In November 26, 2001 reports, Dr. Robert Martino, a rheumatologist, indicated that appellant had "[t]enderness in the left ulnar groove" and "[t]enderness in metacarpal joint of thumb." He also responded "yes" to the question of whether he believed appellant's condition was caused or aggravated by an employment activity. Dr. Martino advised that appellant was totally disabled from September 24 to November 20, 2001 and partially disabled from November 20, 2001. He indicated that appellant could answer a telephone and do limited duty. The Office also received additional treatment notes from Saint Margaret Mercy Healthcare dating from November 2000 to April 15, 2002.[4] Appellant was diagnosed with a tender left wrist, lower back pain and thigh pain, left wrist pain, left wrist strain and lumbar strain/sprain. A progress note dated February 10, 2005 described appellant complaining of pain from the feet to the hands which she "states pain developed over time. Denies any injury." It was also noted that appellant related that "she feels pain is due to all her walking and delivering mail at work." The individual noted that a discussion had occurred and appellant was advised that her symptoms were "not work related."

[2] The specialty was filled in as family practitioner.

[3] On November 16, 2005 appellant requested a telephonic hearing. By letter dated February 8, 2006, the Office advised appellant and her representative that a telephonic hearing would be held on March 13, 2006.

[4] The signatures are illegible and some appear to be from a nurse.

In an April 6, 2005 report, Dr. Brazley noted appellant's history of injury and treatment and diagnosed probable tenosynovitis of the left ulnar styloid and subacute to chronic low back pain.

By decision dated May 2, 2006, the Office hearing representative affirmed the October 14, 2005 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[5] 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 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.[6] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[7]

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 causal relationship, generally, 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.[8]

ANALYSIS

The record establishes that appellant is a mail handler, whose duties included, handle mail with repetitive movement including twisting, pushing, loading, sorting, collecting and dispatching mail. The Office found that appellant submitted insufficient medical evidence to

[5] 5 U.S.C. §§ 8101-8193.

[6] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[7] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[8] *Id.*

establish that she sustained a bilateral carpal tunnel syndrome caused or aggravated by her activities of a mail handler. The issue, therefore, is whether the medical evidence establishes that the implicated employment activities caused or contributed to her bilateral carpal tunnel syndrome condition.

Appellant submitted several reports from Dr. Einhorn. In a December 26, 2000 report, Dr. Einhorn diagnosed pisotriquetral arthritis and FCU tendinitis. In a January 2, 2001 report, she indicated that appellant presented with impaired postural stabilization/neurodynamics of the right upper extremity with localized irritation at the right wrist ulnar border during daily activity. Dr. Einhorn, however, did not specifically address the cause of the diagnosed conditions or relate the conditions to factors of appellant's employment. These reports were prepared several years prior to the filing of this claim. Dr. Einhorn's reports are of diminished probative value.[9]

The Office also received several reports from Dr. Brazley. In an April 6, 2005 report, Dr. Brazley diagnosed probable tenosynovitis of the left ulnar styloid and subacute to chronic low back pain. In a July 18, 2005 report, he opined that appellant's "bilateral carpal tunnel as well as the lumbar degenerative disc at L5 and the sciatica certainly appear to be work related." While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.[10] The Board finds that Dr. Brazley's opinion on causal relationship is speculative in nature. He did not discuss the process by which her bilateral carpal tunnel condition was caused or contributed to by her employment duties.

Appellant also submitted numerous reports and progress notes dating from November 2000 to April 15, 2002, however, the signatures are illegible. The reports discussed lower back and thigh pain, left wrist pain and strain, right wrist strain, pain from her fingers to her wrist, right elbow strain, right wrist tenosynovitis and lumbar strain/sprain. However, there was no discussion regarding the cause of these conditions. These reports are of little probative value.

Appellant submitted reports dated November 26, 2001 from Dr. Martino, who indicated that appellant had "[t]enderness in the left ulnar groove" and "[t]enderness in metacarpal joint of thumb." He also responded "yes" to the question of the whether he believed appellant's condition was caused or aggravated by an employment activity. However, the checking of a box

[9] *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

[10] *Samuel Senkow*, 50 ECAB 370 (1999); *Thomas A. Faber*, 50 ECAB 566 (1999).

"yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.[11]

In an August 31, 2005 duty status report, a family practitioner noted that appellant had CTS in both wrists and prescribed light-duty restrictions. However, as noted, medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.[12] Other medical records are insufficient as they either do not appear to have been prepared by a physician[13] or they do not support causal relationship between employment factors and the diagnosed condition.

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[14] Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[15] Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

There is insufficient medical evidence explaining how appellant's employment duties caused or aggravated her bilateral carpal tunnel syndrome. Appellant has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

[11] *Calvin E. King*, 51 ECAB 394 (2000); *Linda Thompson*, 51 ECAB 694 (2000).

[12] *See supra* note 10.

[13] *See* 5 U.S.C. § 8101(2). This subsection defines the term "physician." *See also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

[14] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[15] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 2, 2006 is affirmed.

Issued: December 18, 2006
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board