

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

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**F.L., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Warrenton, PA, Employer**

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**Docket No. 06-1766  
Issued: December 5, 2006**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On May 12, 2006 appellant filed a timely appeal from an Office of Workers' Compensation Programs' merit decision dated April 20, 2006 which denied his claim for an occupational disease. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue on appeal is whether appellant has met his burden of proof in establishing that he developed a right hand, forearm and wrist condition while in the performance of duty.

**FACTUAL HISTORY**

On January 12, 2005 appellant, then a 43-year-old tractor trailer operator, filed an occupational disease claim alleging that he developed a right hand, forearm and wrist condition while in the performance of duty. He became aware of his condition in October 2004. Appellant did not stop work.

Appellant submitted a January 20, 2005 prescription note from Dr. Ajay Khurana, a Board-certified internist, who noted that appellant was treated for a wrist lesion and was diagnosed with a benign cyst. Dr. Khurana advised that appellant could return to work without restrictions.

By letter dated February 16, 2005, the Office advised appellant of the factual and medical evidence needed to establish his claim. It requested that he submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

Appellant submitted a January 27, 2005 accident investigation worksheet prepared by Renee E. Jackson, his supervisor, who noted that appellant experienced pain in the right hand and forearm while working in the spotter tractor and pulling on the air control valves. In an accident review form dated January 27, 2005, appellant alleged that he developed a repetitive motion condition of his wrist and hands due to opening the door of his tractor and operating the air valve controls. Also submitted was a prescription note dated February 4, 2005, signed by a physician whose signature is illegible. It noted that appellant was scheduled for surgery and would not return to full duty for two weeks. A nursing note dated February 16, 2005, indicated that appellant underwent carpal tunnel release surgery. In a report dated March 4, 2005, Dr. Ronit Wollstein, a general surgeon, stated that appellant presented with pain in the volar wrist, decreased strength to the wrist and finger numbness. He diagnosed right volar wrist ganglion excision and right carpal tunnel syndrome. Surgery was performed on February 16, 2005 and Dr. Wollstein advised that appellant could return to work on March 4, 2005 subject to restrictions.

The employing establishment submitted a statement from Ms. Jackson who indicated that appellant was a tractor-trailer operator responsible for hooking and unhooking glad hands from a tractor to a trailer, pushing and pulling air brakes with repetitive opening of the rear door of the tractor. Ms. Jackson indicated that appellant performed the above tasks 70 to 80 times daily.

In a decision dated March 31, 2005, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his right wrist condition was caused by his employment duties.

On March 3, 2006 appellant requested reconsideration and submitted additional evidence. An injury and illness incident report prepared by Ms. Jackson noted that appellant reported that a knot formed on his right wrist after repetitively moving the rear door handle of his truck. In a progress note dated January 31, 2005, Dr. Khurana indicated that appellant presented with a right ventral wrist ganglion cyst. He diagnosed ganglion cyst and advised that appellant could return to work without restrictions. On March 3, 2005 Dr. Khurana advised that he saw appellant in follow-up for a ganglion cyst. Appellant reported that he underwent carpal tunnel release surgery and removal of a ganglion cyst. Dr. Khurana diagnosed right carpal tunnel release and ganglion cyst removal. An x-ray of the right wrist dated February 4, 2005 revealed no evidence of recent fracture or dislocation of the right wrist and evidence of an old un-united avulsion fracture.

In a February 4, 2005 report, Dr. Wollstein noted findings upon physical examination of weakness and numbness of the right hand, weakness of the thenar, positive Phalen's test,

tenderness of the lateral epicondyle and a large volar ganglion cyst on the wrist. He diagnosed right carpal tunnel syndrome, dorsal wrist syndrome and volar wrist ganglion. Dr. Wollstein stated that these conditions were “probably an overload of this wrist probably a work related as this is repetitive and has been going on for a long time.” He recommended surgical intervention. In an operative report dated February 16, 2005, Dr. Wollstein performed an excision of the volar wrist ganglion and arthrotomy of the radiocarpal joint on the right and a right carpal tunnel release. He diagnosed right volar wrist ganglion and right carpal tunnel syndrome.

In a letter dated March 22, 2006, the Office requested that Dr. Wollstein provide a reasoned opinion addressing the relationship of appellant’s claimed condition and specific employment factors. In a report dated April 6, 2006, Dr. Wollstein provided a general analysis of the causes of carpal tunnel syndrome which was linked with occupations that require repeated use of the hands. He indicated that a greater risk of developing carpal tunnel syndrome was found in tasks which required force, posture, repetition and vibration. Dr. Wollstein noted that appellant performed a job which required him to do repetitive movement with varying force. He opined that “it is possible that his occupation has contributed to the development of carpal tunnel syndrome.”

In a decision dated April 20, 2006, the Office denied modification of the March 31, 2005 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act 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 the injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed are causally related to the employment injury. 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.<sup>1</sup>

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) 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 is generally 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

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<sup>1</sup> Gary J. Watling, 52 ECAB 357 (2001).

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.<sup>2</sup>

### ANALYSIS

Appellant's duties as a tractor trailer operator included performing repetitive activities using his right hand and arm. However, he has not submitted sufficient medical evidence to support that his right wrist condition carpal tunnel syndrome and right ganglion cyst were causally related to the accepted employment factors.

Appellant submitted reports from Dr. Khurana that addressed appellant's diagnosis and work status. However, Dr. Khurana did not provide a history of injury or a rationalized opinion regarding the causal relationship between appellant's diagnosed ganglion cyst and carpal tunnel syndrome and the factors of employment believed to have caused or contributed to such condition.<sup>3</sup> Therefore, these reports are insufficient to meet appellant's burden of proof. Dr. Khurana noted a general history that appellant underwent surgery of the right wrist. However, he did not explain how appellant's work duties caused or contributed to the need for surgery.

Appellant also submitted reports from Dr. Wollstein who diagnosed carpal tunnel syndrome, dorsal wrist syndrome and volar wrist ganglion. Dr. Wollstein opined that these conditions were "probably an overload of this wrist probably a work related as this is repetitive and has been going on for a long time." In an April 6, 2006 report, he noted that appellant performed a job which required him to do repetitive movement with varying force. Dr. Wollstein opined that "it is possible that his occupation has contributed to the development of carpal tunnel syndrome." Although Dr. Wollstein noted that there was a "possibility" that appellant's condition was caused by his repetitive duties at work, he couched his opinion on causal relationship in speculative terms. While these reports provide some support for causal relationship, they are of diminished probative value and insufficient to establish appellant's claim. The reports are speculative. The Board has held that medical opinions that are speculative or equivocal in character have little probative value.<sup>4</sup> Dr. Wollstein did not provide an unequivocal opinion supporting causal relationship between the accepted employment factors and the diagnosed conditions. He did not explain how appellant's job would cause or contribute to the diagnosed conditions or need for surgery.

Appellant also submitted a nursing note dated February 16, 2005. However, the Board has held that treatment notes signed by a nurse are not considered medical evidence as a nurse is

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<sup>2</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>3</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>4</sup> *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

not a physician, as defined under the Act.<sup>5</sup> Therefore, this note is insufficient to meet appellant's burden of proof.

The remainder of the medical evidence submitted by appellant is insufficient to establish his claim. The reports do not provide an opinion on the causal relationship between appellant's job duties and his diagnosed conditions of right carpal tunnel syndrome and volar wrist ganglion. For this reason, this evidence is not sufficient to meet appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor is the belief that his condition was caused, precipitated or aggravated by his employment sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.<sup>6</sup> Appellant failed to submit such evidence, and the Office therefore properly denied appellant's claim for compensation.

### CONCLUSION

The Board therefore finds that, as none of the medical reports provided an opinion that appellant developed an employment-related injury in the performance of duty, appellant failed to meet his burden of proof.<sup>7</sup>

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<sup>5</sup> See 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. See also *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board has held that a medical opinion, in general, can only be given by a qualified physician).

<sup>6</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>7</sup> With his request for an appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; see 20 C.F.R. § 501.2(c).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 20, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 5, 2006  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

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