United States Department of Labor
Employees' Compensation Appeals Board

U.G., Appellant	)	
and	)	**Docket No. 06-1818**
	)	**Issued: December 19, 2006**
U.S. POSTAL SERVICE, POST OFFICE, St. Petersburg, FL, Employer	)	

Appearances:
Appellant, pro se
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 August 3, 2006 appellant filed a timely appeal from a May 4, 2006 merit decision of a hearing representative of the Office of Workers' Compensation Programs denying her occupational disease claim. 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 has established that she sustained a left wrist condition due to factors of her federal employment.

FACTUAL HISTORY

On December 27, 2004 appellant, then a 49-year-old clerk, filed a claim for a traumatic injury occurring on November 8, 2004 in the performance of duty.[1] She related that while keying and pushing mail she experienced a sharp pain in her left wrist. Appellant identified the nature of the injury as a bump on her left wrist. Her supervisor controverted the claim, noting that appellant did not attribute her condition to her job duties on November 8, 2004.

In a statement dated January 25, 2004, appellant related, "My injury appears to have developed gradually. At the onset, my wrist pain was mild to moderate, but I [bore] it. It was not until the pain became sharp and manifested with bumps on my wrist that I made a report to my supervisor of the severe pain that impeded the completion of certain tasks/duties." Appellant described in detail her job duties, including repetitive movement of packages, pushing wheeled steel cages of mail and removing sacks of mail from a bar.

Appellant submitted an undated authorization for examination and/or treatment (Form CA-16), in which a physician diagnosed tendinitis and checked "yes" that the condition was caused by the described employment activity of pushing heavy mail.[2] The physician found that she could resume light-duty work on December 28, 2004. In a duty status report dated December 27, 2004, a physician diagnosed tendinitis and listed work restrictions. The physician checked "yes" that the condition was related to the history of injury provided on the form of appellant injuring her left wrist moving bundles of mail on a conveyor belt. In a progress report dated December 30, 2004, a physician diagnosed tendinitis and listed work restrictions.[3]

In a statement dated January 27, 2005, the employing establishment controverted appellant's claim, arguing that she sought a light-duty position before attributing her wrist condition to her employment. The employing establishment also noted that she attributed her condition to her normal work duties.[4]

By decision dated February 14, 2005, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that the incident occurred as alleged and as the medical evidence did not demonstrate that she sustained a work injury.

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[1] A traumatic injury is defined as a "condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift." 20 C.F.R. § 10.5(ee). An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift." 20 C.F.R. § 10.5(q). While appellant filed a claim for a traumatic injury, she attributed her condition to factors occurring over a period of time. The Office thus properly adjudicated her claim as an occupational disease.

[2] The name of the physician is not legible and the physician did not provide the date of the examination.

[3] The record contains a report from a nurse dated January 5, 2005. A nurse is not a "physician" under the Federal Employees' Compensation Act and thus cannot render a medical opinion. 5 U.S.C. § 8101(2); *Vincent Holmes*, 53 ECAB 468 (2002).

[4] In a statement dated January 27, 2005, Dennis Mineo, a supervisor, indicated that appellant told him that she experienced wrist soreness after working on the small bundle sorter. Appellant did not then state that her current condition was job related.

On February 21, 2005 appellant requested an oral hearing. She submitted a medical report dated November 30, 2004 from Dr. Jorge A. Rodriguez, Jr., a Board-certified orthopedic surgeon. Dr. Rodriguez stated that appellant's physical examination was "consistent with de Quervain's tenosynovitis involving her wrists. This is from her use and she finds that this is aggravated more so when she is on her machines at work." Dr. Rodriguez discussed appellant's complaints of swelling of the left wrist but found no ganglion on physical examination. In a progress report dated February 8, 2005, he diagnosed bilateral de Quervain's tenosynovitis of the wrists. Dr. Rodriguez recommended an arthrogram of the left wrist to rule out a triangular fibrocartilage complex (TFCC) tear.

An arthrogram of the left wrist obtained on March 4, 2005 revealed a large tear of the triangular fibrocartilage and a tear of the lunotriquetral ligament. In a progress report dated March 10, 2005, Dr. Rodriguez diagnosed a TFCC tear and a "possible interligamentous injury involving the scapholunate or the triquetral ligament." He opined that these conditions could "explain a lot of her symptoms" from a workers' compensation standpoint. Dr. Rodriguez also diagnosed de Quervain's tenosynovitis and a recurring ganglion. He listed work restrictions. Dr. Rodriguez recommended arthroscopic surgery to repair the TFCC tear and ligamentous injury.

In a form report dated April 12, 2005, Dr. Rodriguez diagnosed a TFCC tear repaired by resection on April 4, 2005. He checked "yes" that the condition was caused or aggravated by employment. Dr. Rodriguez found that appellant could resume light-duty employment on April 26, 2005. In a narrative report of the same date, Dr. Rodriguez asserted that surgery confirmed appellant's TFCC tear. He stated:

> "A question asked is was this caused by the injury and the answer is yes. In her particular case, in the past she felt like she had something that was going on in her wrist and pain was coming on where she did not have this problem prior. In order to get a TFCC tear in which you have a flap it catches and typically this comes from some type of injury and in her particular case, we had to treat it because it was found at the time of her surgery."

In a progress report dated September 8, 2005, Dr. Rodriguez returned appellant to limited-duty work because of swelling and a reaggravation of right-sided tennis elbow. In a report dated November 8, 2005, he noted that he originally treated appellant on November 8, 2004 for numbness of the right thumb and pain spreading to her elbow. Appellant then developed bilateral wrist pain. Dr. Rodriguez diagnosed de Quervain's tenosoynovitis of the wrists and a TFCC tear, which he repaired on April 4, 2005. He noted that appellant sustained a subsequent wrist injury on September 4, 2005 while performing her light-duty employment. In a progress report dated January 26, 2006, Dr. Rodriguez discussed appellant's work duties and problems she experienced with the posterior aspect of her back wrist which he found "may have been involved with the injury…."

At the February 23, 2006 hearing, appellant specified that her condition developed over a period of time and described her employment duties. She related that the Office accepted a subsequent claim that she filed for a wrist injury.

By decision dated May 4, 2006, the Office hearing representative affirmed the February 14, 2005 decision, finding that the medical evidence was insufficient to establish that appellant sustained a wrist condition due to work duties performed prior to September 8, 2004.[5] The hearing representative noted that appellant's claim was for an occupational disease rather than a traumatic injury as she attributed her condition to employment factors occurring over a period of more than one work shift.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[6] 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.[7] 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.[8]

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;[9] (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;[10] and (3) medical evidence establishing 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.[11]

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.[12] The opinion of the physician must be based on a complete factual and medical background of the

[5] The hearing representative noted that the Office had accepted appellant's September 2005 claim, assigned file number 062150954, for an aggravation of tenosynovitis of the hands and wrists and an aggravation of right elbow epicondylitis.

[6] 5 U.S.C. §§ 8101-8193.

[7] *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[8] *See Irene St. John*, 50 EAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

[9] *Solomon Polen*, 51 ECAB 341 (2000).

[10] *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

[11] *Ernest St. Pierre*, 51 ECAB 623 (2000).

[12] *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

claimant,[13] must be one of reasonable medical certainty[14] explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[15]

ANALYSIS

Appellant attributed her wrist condition to keying, pushing mail, repetitively moving packages and removing sacks of mail from a bar. The employing establishment did not dispute that she performed the described job duties. The Board finds that she has established the occurrence of the claimed employment factors. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

The record contains December 2004 form reports and progress reports.[16] The signature of the physician on the reports, however, is not legible. It is well established that to constitute competent medical opinion evidence the medical evidence submitted must be signed by a qualified physician.[17] As these reports lack proper identification, the Board finds that they do not constitute probative medical evidence.[18]

In a report dated November 30, 2004, Dr. Rodriguez diagnosed de Quervain's tenosynovitis which he attributed to appellant's use of her wrists. He noted that she found that her symptoms were aggravated when she performed work on machines at the employing establishment. While Dr. Rodriguez attributed appellant's tenosynovitis to her "use" of her wrists, he did not elaborate on whether this "use" occurred during the performance of her job duties or outside of her employment. Dr. Rodriguez further described appellant's belief that working on machines aggravated her condition but did not make any independent finding in this regard. He did not explain how appellant's work duties caused or contributed to her writs condition. A physician's report is of little probative value when it is based on a claimant's belief regarding causal relationship rather than a doctor's independent judgment.[19]

In a progress report dated February 8, 2005, Dr. Rodriguez again diagnosed bilateral de Quervain's tenosynovitis of the wrists. Based on appellant's complaints of left wrist pain and

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[13] *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

[14] *John W. Montoya*, 54 ECAB 306 (2003).

[15] *Judy C. Rogers*, 54 ECAB 693 (2003).

[16] The Board notes that the employing establishment issued a Form CA-16. A properly executed Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *Tracey P. Spillane*, 54 ECAB (2003). The Office did not address this issue in the May 4, 2006 decision.

[17] *Vickey C. Randall*, 51 ECAB 357 (2000); *Merton J. Sills*, 39 ECAB 572 (1988).

[18] *Id*.

[19] *Earl David Seal*, 49 ECAB 152 (1997).

swelling, he recommended an arthrogram of the left wrist to determine if she had a TFCC tear. Dr. Rodriguez did not address the cause of her de Quervain's tenosynovitis or possible TFCC tear. The Board has held that 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.[20]

On March 10, 2005 Dr. Rodriguez diagnosed de Quervain's tenosynovitis, a recurring ganglion, a TFCC tear and a possible ligament tear. He asserted that the diagnosed conditions could explain appellant's symptoms from a workers' compensation standpoint. Dr. Rodriguez found that she could work with restrictions. While Dr. Rodriguez alluded to a link between appellant's symptoms and her workers' compensation claim, he did not attribute any diagnosed condition to her employment duties. Further, he provided no rationale in support of his opinion. The opinion of a physician supporting causal relationship must be based on a complete factual and medical background, supported by affirmative evidence, address the specific factual and medical evidence of record and provide medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[21]

In a form report dated April 12, 2005, Dr. Rodriguez diagnosed a TFCC tear repaired by resection on April 4, 2005. He checked "yes" that the condition was caused or aggravated by employment and opined that she could return to work with restrictions on April 26, 2005. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion has little probative value and is insufficient to establish a claim.[22]

Dr. Rodriguez also provided a narrative report dated April 12, 2005. He found that appellant's TFCC tear was "caused by the injury." Dr. Rodriguez noted that she did not have prior wrist problems. He also asserted that a TFCC tear occurred when a flap catches and requires "some type of injury." Dr. Rodriguez did not attribute appellant's TFCC tear to her job duties but rather to an unspecified injury which may or may not have occurred at work. Consequently, his opinion is of little probative value

In a progress report dated September 8, 2005, Dr. Rodriguez found that appellant should work limited duty because of swelling and a reaggravation of right-sided tennis elbow. In a report dated November 8, 2005, he noted that he originally treated appellant one year prior for numbness of the right thumb, pain spreading to her elbow and subsequent wrist pain. Dr. Rodriguez diagnosed bilateral de Quervain's tenosynovitis, bilateral tennis elbow, a treated TFCC tear and a lunotriquetral ligament tear. In a progress report dated January 26, 2006, he discussed appellant's work duties and problems she experienced with the posterior aspect of her back wrist which he found "may have been involved with the injury…." In these reports, however, Dr. Rodriguez did not relate any diagnosed condition to appellant's performance of her

[20] *Conrad Hightower*, 54 ECAB 796 (2003).

[21] *Robert Broome*, 55 ECAC 339 (2004).

[22] *Deborah L. Beatty*, 54 ECAB 340 (2003).

job duties. He further referenced an unspecified injury in his January 26, 2006 report.[23] Thus, Dr. Rodriguez' opinion is insufficient to meet appellant's burden of proof.

On appeal, appellant maintained that she sustained her TFCC tear pushing a heavy cage of mail on November 6, 2004. She also asserted that she injured her hand on November 7, 2004 grabbing and turning a magazine bundle. As discussed, however, appellant has not submitted the necessary medical evidence in support of her claim.[24] An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is causal relationship between her claimed condition and her employment.[25] To establish causal relationship, she must submit a physician's report in which the physician reviews the employment factors she identified as causing her condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.[26] Appellant failed to submit such evidence in this case and, therefore, has failed to discharge her burden of proof to establish that she sustained a left wrist injury causally related to the performance of her employment duties.[27]

CONCLUSION

The Board finds that appellant has not established that she sustained a left wrist condition due to factors of her federal employment.

[23] The Board notes that appellant has an accepted claim for a wrist injury under another claim number.

[24] Lay persons are not competent to render a medical opinion. *JaJa K. Asaramo*, 55 ECAB 200 (2004).

[25] *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glenn*, 53 ECAB 159 (2001).

[26] *Calvin E. King*, 51 ECAB 394 (2000).

[27] Appellant submitted additional medical evidence subsequent to the Office's May 4, 2006 decision. The Board's jurisdiction, however, is limited to a review of the evidence that was in the case record before the Office at the time of its final decision. 5 U.S.C. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 4, 2006 is affirmed.

Issued: December 19, 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