

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

SUSAN M. BELT, Appellant

and

**U.S. POSTAL SERVICE, WESTWOOD POST
OFFICE, Kalamazoo, MI, Employer**

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**Docket No. 06-683
Issued: June 13, 2006**

Appearances:
Susan M. Belt, 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

JURISDICTION

On January 31, 2006 appellant filed a timely appeal from the January 19, 2006 merit decision of the Office of Workers' Compensation Programs which denied her 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 met her burden of proof to establish that she sustained an employment-related injury.

FACTUAL HISTORY

On June 25, 2005 appellant, then a 49-year-old rural carrier, filed a Form CA-1, traumatic injury claim, alleging that on June 23, 2005 the muscle between her first and second finger of her right hand became painful with spasms. She did not stop work but on June 25, 2005 her supervisor, Sharon Weissman, authorized medical treatment. Thereafter, appellant began limited duty. She submitted reports dated from June 25 to July 15, 2005 in which Dr. Mark Beams, a Board-certified internist, diagnosed interosseous myositis and checked the "yes" box, indicating that the condition was employment related. He recommended medication, a splint, and that she

not use her right hand. On July 29, 2005 he advised that appellant's only limitation was that her first and middle fingers should be taped.¹ In an October 19, 2005 duty status report, Dr. James R. Smith, a Board-certified orthopedic surgeon, provided clinical findings of subjective pain of the right hand and advised that appellant's only restriction was a two-pound lifting limitation.

By letter dated November 9, 2005, the Office advised appellant of the evidence needed to support her claim and to include a narrative medical report in which a physician provided an explanation as to why the diagnosed condition was caused or aggravated by her employment. In an undated response, appellant described her job duties and stated that "exactly which bump or knock prior to June 23, 2005 started the chain of events would be difficult to pinpoint," noting that on that day her right hand had shooting pains as she cased mail. She reported that on Saturday June 25, 2005 a massive shooting pain and swelling between her fingers occurred while she was casing mail, and her supervisor sent her to the medical clinic which later referred her to Dr. Smith.

In an October 19, 2005 report, Dr. Smith noted the history of onset of pain on June 23, 2005, that appellant's job duties required moving mail by hand, but that she did not recall a specific injury. Right hand examination demonstrated no swelling but dorsal pain at the second web space and no palpable masses. Fingers extended fully. Passive hyperextension and forced flexion of metacarpophalangeal (MP) joint caused pain with loss of flexion of the MP joint of the first and middle fingers. He found no signs of inflammation and motor and sensory examinations were intact but noted that had an area of neuritic discomfort over the proximal to middle third of the middle finger x-ray with sharp pain on palpation of the second web space which, he opined, was generally not true with pure neuromatous discomfort. Dr. Smith advised that x-ray showed no specific abnormality but stated he could not rule out a specific tumor abnormality of the second web and recommended magnetic resonance imaging (MRI) scan. He opined that appellant should continue light duty. In a November 17, 2005 report, Dr. Smith stated:

"[Appellant] works at the [employing establishment]. [She] finds that use of her hand creates discomfort. [Appellant] was not able to identify a specific injury, but she notes that there is a high probability that she may have bumped or knocked her hand. [She] has signs of neuromatous discomfort over one of the dorsal sensory nerves, which may be helped by therapy. The other aspect is that she has significant pain in the web space, which has not been relieving itself. I am not able to identify a specific anatomic abnormality. It is felt that MRI [scan] may help identify deep structure injury."

By decision dated January 19, 2006, the Office denied the claim on the grounds that appellant submitted insufficient evidence to establish that an incident occurred on June 23, 2005 and the medical evidence submitted did not show that she sustained an injury on June 23, 2005.

¹ Appellant also submitted medical reports signed by a physician's assistant and physical therapy notes. Neither a physician's assistant nor a physical therapist is considered a "physician" within the meaning of section 8101(2) of the Federal Employees' Compensation Act, and their reports are not considered competent medical evidence. 5 U.S.C. § 8101(2); *Ricky S. Storms*, 52 ECAB 349 (2001); *Vickey C. Randall*, 51 ECAB 357 (2000).

LEGAL PRECEDENT

An employee seeking benefits under the 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 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. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.³

Office regulations, at 20 C.F.R. § 10.5(ee) define a traumatic injury 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.⁴ To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether “fact of injury” is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed. An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.⁵

Section 10.5(q) of Office regulations defines an occupational disease as a condition produced by the work environment over a period longer than a single workday or shift.⁶ 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 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.⁷

² 5 U.S.C. §§ 8101-8193.

³ *Gary J. Watling*, 52 ECAB 278 (2001).

⁴ 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB ____ (Docket No. 03-1157, issued May 7, 2004).

⁵ *Gary J. Watling*, *supra* note 3.

⁶ 20 C.F.R. § 10.5(q).

⁷ *Solomon Polen*, 51 ECAB 341 (2000).

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁸ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.⁹ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

ANALYSIS

Appellant alleged a date of injury of June 23, 2005; however, in her statement of explanation she also reported that her finger pain worsened while at work on June 25, 2005 and her supervisor authorized medical treatment that day. Office regulations distinguish claims of traumatic injury from those of occupational disease. A traumatic injury means a condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift. An occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.¹¹ This case, therefore, should be adjudicated as an occupational disease claim since appellant attributed her condition to employment factors that occurred on both June 23 and 25, 2005, a period greater than a single workday or work shift. The evidence in this case establishes that appellant was performing tasks at work when she sought medical treatment on June 25, 2005. Therefore, the issue is whether she met her burden of proof to establish that she sustained an injury as a result of her employment duties.

The Board finds that appellant did not submit sufficient medical evidence to establish that her right hand condition is causally related to factors of her federal employment. In an attending physician's report dated June 25, 2005, Dr. Beams diagnosed interosseous myositis and checked the "yes" box indicating that the diagnosed condition was employment related. When a physician's opinion on 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.¹² In his other reports, Dr. Beams did not provide an opinion regarding the cause of appellant's condition. The medical evidence of record does not offer any opinion regarding the cause of appellant's condition and is of limited probative value on the issue of causal relationship.¹³

⁸ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹⁰ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹¹ 20 C.F.R. § 10.5(q), (ee); *Andy J. Paloukos*, 54 ECAB 712 (2003).

¹² *Gary J. Watling*, *supra* note 3.

¹³ *Willie M. Miller*, 53 ECAB 697 (2002).

Dr. Smith noted that appellant worked at the employing establishment and had complained that the use of her hands caused discomfort. He provided examination findings of an area of neuritic discomfort in appellant's right hand, advised that she could not identify a specific injury, and opined that he could not identify a specific anatomic abnormality. Dr. Smith also failed to provide an opinion regarding the cause of appellant's right hand condition.¹⁴

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.¹⁵ In this case, appellant submitted no such evidence.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an employment-related injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 19, 2006 be affirmed as modified.

Issued: June 13, 2006
Washington, DC

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

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

¹⁴ *Id.*

¹⁵ *Patricia J. Glenn*, 53 ECAB 159 (2001).