United States Department of Labor
Employees' Compensation Appeals Board

MARGARET R. SCHMIDT, Appellant	)	
and	)	**Docket No. 06-211**
	)	**Issued: May 5, 2006**
U. S. POSTAL SERVICE, POST OFFICE, Capitol Heights, MD, Employer	)	

Appearances:
Margaret R. Schmidt, 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
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 7, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs hearing representative's decision dated October 20, 2005, finding that she failed to establish that she sustained an injury as alleged. 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 an injury in the performance of duty, causally related to factors of her federal employment.

FACTUAL HISTORY

On March 12, 2004 appellant, then a 51-year-old permanent rehabilitation employee, filed an occupational disease claim alleging that she developed carpal tunnel syndrome and fibromyalgia in the performance of duty. She first became aware of the injury and its relation to her work on February 10, 2003. Appellant retired from the employing establishment in

October 2003. Appellant submitted a detailed statement describing her daily job duties, which included; lifting boxes of office supplies, answering a telephone that rang constantly, writing up complaints and taking messages from voice mail and returning calls to "hundreds of customers," and typing return labels. She alleged that her job duties caused her to develop pain in her back, leg, arm and neck on a daily basis.

In a work capacity evaluation dated August 3, 2004, Dr. Khochnof Antar, Board-certified in internal medicine, advised that appellant was experiencing a work-related problem and had a lifting restriction of five pounds. However, he indicated that appellant could not work.

In an August 3, 2004, attending physician's report, a rheumatologist, whose signature is illegible, determined that appellant had "DVD on x-ray of wrists." He diagnosed fibromyalgia and carpal tunnel syndrome. Dr. Antar checked the box "yes" that he believed appellant's condition was caused or aggravated by an employment activity and filled out, "aggravated by typing and lifting." He indicated that appellant was totally disabled from February 18, 2003 to the present and that she could not return to work.

By letters dated November 30, 2004, the Office advised appellant and the employing establishment that additional factual and medical evidence was needed. The Office explained that the physician's opinion was crucial to her claim and allotted appellant 30 days within which to submit the requested information.

By decision dated January 6, 2005, the Office denied appellant's claim. The Office found that the evidence did not support that the claimed medical condition was related to established work-related events.

On January 27, 2005 appellant requested a hearing. She subsequently changed this to a request for an examination of the written record.

The Office received additional evidence, including a February 21, 2003 x-ray of the left wrist, read by Dr. Charles F. Buckley, a Board-certified diagnostic radiologist, which showed no significant arthritic changes.

In a May 20, 2003 report, Dr. David Dorin, a Board-certified orthopedic surgeon, noted that appellant had received treatment since 1991 from another physician for symptoms related to her left hand. He noted that the symptoms were related to her work activities. He conducted a physical examination and diagnosed bilateral carpal tunnel syndrome. He also requested an electromyography (EMG) scan. A May 23, 2003 EMG scan and nerve conduction study was read by Dr. Girija N. Singh, Board-certified in physical medicine and rehabilitation, as normal and did not reveal any significant abnormalities. In a report dated July 1, 2003, Dr. Dorin noted that appellant had a history of left hand pain due to work activities. He advised that there was no preexisting history of injury or disease and diagnosed bilateral carpal tunnel syndrome and triggering of the flexor tendon in the left hand. He checked the box "yes" in response to whether he believed appellant's condition was caused by an employment activity. Dr. Dorin indicated that appellant could continue her current work schedule. In a separate report also dated July 1, 2003, Dr. Dorin noted that appellant had pain in her wrist and hand. He diagnosed chronic fibromyalgia in both hands and ruled out carpal tunnel syndrome. She also provided several

reports from her chiropractor, Dr. Douglas Sims. His reports did not indicate that a subluxation of the spine was diagnosed.

By decision dated October 20, 2005, the Office hearing representative affirmed the January 6, 2005 decision denying the claim.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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.[2] 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.[3]

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.[4]

ANALYSIS

In this case, the Office accepted that appellant performed duties that included lifting boxes of office supplies, answering the telephone, writing up complaints and taking messages from voice mail and returning calls and typing return labels. The Board finds that appellant

[1] 5 U.S.C. §§ 8101-8193.

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

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

[4] *Id.*

submitted insufficient medical evidence to establish that she sustained a wrist condition caused or aggravated by any specific factors of her federal employment.

Appellant submitted an August 3, 2004 report from Dr. Antar who advised that appellant had a work-related problem. However, he did not provide a specific diagnosis or an explanation of how any "problem" was work related. The Board has long held that medical opinions not containing rationale on causal relation are of diminished probative value and are generally insufficient to meet appellant's burden of proof.[5]

In an August 3, 2004 report, Dr. Seth H. Lourie, a rheumatologist, diagnosed fibromyalgia and carpal tunnel syndrome. He checked the box "yes" that appellant's condition was caused or aggravated by an employment activity and filled out, "aggravated by typing and lifting." However, checking of the box "yes" that the disability was causally related to employment is insufficient without further explanation or rationale, to establish causal relationship.[6] Although he filled in "aggravated by typing and lifting" he did not provide any further details. Dr. Lourie did not offer a rationalized medical opinion as to how appellant's employment caused or aggravated her condition.[7]

Appellant also submitted several reports from Dr. Dorin. On May 20, 2003 Dr. Dorin noted that appellant's symptoms were related to her work activities and diagnosed bilateral carpal tunnel syndrome. However, he did not offer a rationalized medical opinion as to how appellant's employment caused or aggravated her condition.[8] Furthermore, he ruled out carpal tunnel syndrome in his later reports. In a report dated July 1, 2003, Dr. Dorin noted that appellant had a history of left hand pain due to work activities. He advised that there was no preexisting history of injury or disease and diagnosed bilateral carpal tunnel triggering of the flexor tendon in the left hand. He checked the box "yes" in response to whether he believed appellant's condition was caused by an employment activity. Dr. Dorin indicated that appellant could continue her current work schedule. As noted, however, the checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.[9] In a separate report also dated July 1, 2003, Dr. Dorin noted that appellant had pain in her wrist and hand. He diagnosed chronic fibromyalgia in both hands and ruled out carpal tunnel syndrome after receiving the diagnostic results from the EMG dated May 23, 2003. However, he did not opine that appellant's fibromyalgia was caused by her federal employment duties. He did not mention her job duties in these reports and offered no explanation as to how

[5] *Carolyn F. Allen,* 47 ECAB 240 (1995).

[6] *Barbara J. Williams,* 40 ECAB 649 (1989).

[7] The opinion of the physician must be based upon 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. The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion. *See James Mack,* 43 ECAB 321 (1991).

[8] *Id.*

[9] *See supra* note 6.

the fibromyalgia was causally related to factors of her federal employment. Consequently, as his reports do not specifically address whether any factors of appellant's employment caused her diagnosed condition this evidence is insufficient to establish appellant's claim.

She also provided several reports from her chiropractor, Dr. Sims. In assessing the probative value of chiropractic evidence, the initial question is whether the chiropractor is considered a physician under section 8101(2) of the Act.[10] A chiropractor is not considered a physician under the Act unless it is established that there is a spinal subluxation as demonstrated by x-ray to exist.[11] In this case, the record does not indicate that a subluxation of the spine was ever diagnosed. Therefore, Dr. Sim's reports cannot be considered those of a physician and are of no probative medical value.

Appellant also submitted several diagnostic reports. However, these reports merely reported findings and did not contain an opinion regarding the cause of the reported condition. Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof.[12]

The Board has held that 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.[13] 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.[14] Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no competent medical evidence explaining how appellant's employment duties caused or aggravated a wrist condition, 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 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.

[10] 5 U.S.C. § 8101(2).

[11] *Thomas R. Horsfall*, 48 ECAB 180 (1996).

[12] *Lois E. Culver* (*Clair L. Culver*), 53 ECAB 412 (2002).

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

[14] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs' hearing representative dated October 20, 2005 is affirmed.

Issued: May 5, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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