

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

W.P., Appellant)
and) Docket No. 06-1467
DEPARTMENT OF THE TREASURY,) Issued: October 5, 2006
INTERNAL REVENUE SERVICE,)
Richmond, VA, 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 June 12, 2006 appellant, filed a timely appeal of a March 7, 2006 merit decision from the Office of Workers' Compensation Programs denying her claim for compensation. 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 condition of the thumbs in the performance of her duty.

FACTUAL HISTORY

On January 1, 2006 appellant, a 58-year-old human resources assistant, filed an occupational disease claim (Form CA-2) alleging problems with her thumbs. According to her, she became aware of her condition on October 24, 2005 and related it to her employment on November 20, 2004. Appellant explained that she developed the problem as a result of moving or transferring files from one cubical to another while in the course of her employment. She

consulted a doctor when the pain failed to go away. Appellant listed her condition as “trigger thumbs.” Donald Lightman, Chief, CARE and Compliance Design Center, W&I Learning and Education related the foregoing in a January 31, 2006 statement.

By letter dated February 2, 2006, the Office advised appellant that she needed to submit additional evidence with respect to her claim. She was asked to provide, within 30 days, details about employment-related activities she believed contributed to her condition and a comprehensive medical report from a licensed medical doctor with a diagnosis, results of tests and the cause of her condition. Additionally, the physician’s report needed to include details of how exposure in the federal workplace contributed to appellant’s condition.

Appellant provided documents from “The Hand and Upper Extremity Surgery Center of Georgia, LLC” and the “Hand Treatment Center, P.C.” Her left thumb was surgically treated on October 31, 2005 by Dr. Gary Mark Lourie, an orthopedic surgeon, for “left trigger thumb.” The office notes from the Hand Treatment Center show that appellant had both thumbs treated by “1/2 +1/2 X&C injection” on June 28, 2005. The injections helped the right thumb but failed to help the left thumb. Surgery was scheduled on the left thumb for October 31, 2005 and, as of November 21, 2005, appellant’s range of motion was “excellent.” In addition, appellant provided blood test results to the Office as well as her referrals to Dr. Lourie by Dr. Robert Hibler, an internist.

On March 7, 2006 the Office denied appellant’s claim on the grounds that the medical evidence did not demonstrate that the claimed medical condition was causally related to her employment factors. The Office found that appellant established that she was a federal employee and had timely filed her claim, but failed to provide a medical opinion explaining the relationship between her diagnosed condition and her work-related activities.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act has the burden of establishing the essential elements of 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.¹ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

¹ *Elaine Pendleton*, 40ECAB 1143, 1145 (1989).

² *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990).

To establish that an injury was sustained in the performance of duty in an occupational disease claim,³ an employee must submit the following: (1) medical evidence establishing the presence or existence of a condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the employee were the proximate cause of the condition or illness, 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 employee.⁴

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence. 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 an employee's diagnosed conditions and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed conditions and the specific employment factors identified by the employee.⁵

The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.⁶

ANALYSIS

The Office accepted as factual that appellant's employment duties entailed transferring files across the room from one cubicle to the next. The medical evidence demonstrates that appellant underwent treatment for trigger thumbs consisting of injections and an operation on her left thumb. However, appellant has not established that her condition was caused or aggravated by her employment.

Whether the employment condition is related to appellant's employment must be established by medical evidence. Kaiser Permanente referral forms signed by Dr. Hibler are not sufficient medical evidence. Although they describe appellant's condition, the causal relationship of the claimed condition to appellant's employment was not addressed. The reports

³ *William Taylor*, 50 ECAB 234 (1999); see also 20 C.F.R. § 10.5(q) which defines an occupational disease or illness as a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection, continued or repeated stress or strain or other continued or repeated conditions or factors of the work environment.

⁴ *Donna L. Mims*, 53 ECAB 730 (2002).

⁵ *Id.*

⁶ *Id.*

from the Hand and Upper Extremity Surgery Center of Georgia and the Hand Treatment Center by Dr. Lourie generally discussed the left thumb surgery. However, Dr. Lourie did not relate the surgery to appellant's federal employment. Appellant has not met her burden of proof to provide rationalized medical evidence sufficient to establish that the implicated work factors caused or contributed to the condition of her thumbs.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof to establish that her condition, trigger thumbs, is causally related to her employment.

ORDER

IT IS HEREBY ORDERED THAT the March 7, 2006 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 5, 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