

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

L.S., Appellant

and

**U.S. DEPARTMENT OF AGRICULTURE, FSIS,
Murrayville, GA, Employer**

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**Docket No. 06-1036
Issued: September 13, 2006**

Appearance:
L.S., 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 April 6, 2006 appellant filed a timely appeal from an Office of Workers' Compensation Programs' merit decision dated March 3, 2006, which denied her occupational disease claim. 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 is whether appellant met her burden of proof in establishing that she developed left carpal tunnel syndrome while in the performance of duty.

FACTUAL HISTORY

On January 9, 2006 appellant, then a 61-year-old food inspector, filed an occupational disease claim alleging that she developed carpal tunnel syndrome of the left wrist while performing repetitive work duties. Appellant became aware of her condition on December 3, 2005. She stopped work on January 5, 2006 and returned on January 26, 2006.

In an undated narrative statement, appellant noted that she experienced numbness and soreness in her left hand as a result of performing her duties as a food inspector. She was assigned to the poultry slaughter plant and was responsible for performing post mortem inspection of eviscerated poultry for foreign material, which required constant repetitive motions of both hands. Appellant filed a claim for right carpal tunnel syndrome in March 1997, which was accepted by the Office in file number 02-2126916.

Appellant submitted an unsigned treatment note dated July 26, 2005 from Northeast Georgia Primary Care, which noted that appellant was treated for left wrist and arm pain. The note related that appellant was a poultry inspector and used her hands all day and experienced aching and weakness in her left hand and arm. Findings upon physical examination revealed tenderness over the medial and lateral epicondyle of the left elbow, tenderness of the wrist, good range of motion and a negative Tinel's sign. Appellant was diagnosed with tendinitis of the left elbow, carpal tunnel syndrome of the left hand and fatigue. Emergency room treatment notes dated December 5, 2005 indicated that appellant was treated for numbness of the right hand. A physician, whose signature is illegible, diagnosed tenosynovitis of the left wrist and elbow and carpal tunnel syndrome. A wrist splint was prescribed. Dr. Frank McDonald, a Board-certified neurologist, noted on December 21, 2005 that appellant presented with pain in her left upper limb with associated stiffness in the neck and weakness. He diagnosed limb pain. In a report dated December 28, 2005, Dr. McDonald noted that the nerve conduction studies revealed moderately severe left median neuropathy at the wrist (carpal tunnel syndrome) and mild right median neuropathy at the wrist. In a December 7, 2005 report, Dr. David L. Hocker, a Board-certified internist, noted that appellant presented with finger numbness and shoulder pain. On a return to work slip dated December 7, 2005, he diagnosed brachial plexopathy and advised that she could return to work on December 22, 2005. In a return to work slip dated January 5, 2006, Dr. Hocker diagnosed bilateral carpal tunnel syndrome and indicated that appellant could return to work on January 26, 2006.

In a letter dated January 19, 2006, the Office advised appellant of the factual and medical evidence needed to establish her claim. It requested that she submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

In a decision dated March 3, 2006, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that her condition was caused by her employment duties.

LEGAL PRECEDENT

An employee seeking benefits under the 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 and/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.¹

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 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 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.²

ANALYSIS

It is not disputed that appellant's duties as a food inspector included performing repetitive activities using her arms and hands. However, she has not submitted sufficient medical evidence to support that her left condition is causally related to her federal employment. On January 19, 2006 the Office advised appellant of the medical evidence needed to establish her claim. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated her claimed condition.

Appellant submitted an unsigned treatment note dated July 26, 2005, from Northeast Georgia Primary Care. It diagnosed tendinitis of the left elbow, carpal tunnel syndrome of the left hand and fatigue. However, the Board has held that unsigned medical reports are of no probative value.³ Therefore, this report is insufficient to establish her claim. Also submitted were emergency room treatment notes dated December 5, 2005, which indicated that appellant was treated for numbness of the right hand. A physician, whose signature is illegible, diagnosed tenosynovitis of the left wrist and elbow, carpal tunnel syndrome and prescribed a wrist splint. However, the physician neither mentioned that appellant's condition was work related nor did he provide a rationalized opinion addressing the causal relationship between appellant's diagnosed

¹ Gary J. Watling, 52 ECAB 357 (2001).

² Solomon Polen, 51 ECAB 341 (2000).

³ See Merton J. Sills, 39 ECAB 572 (1988).

condition and the factors of employment implicated in the claim.⁴ Therefore, this report is insufficient to meet appellant's burden of proof.

Dr. McDonald, a Board-certified neurologist, submitted reports which diagnosed limb pain and noted that nerve conduction studies revealed moderately severe left median neuropathy at the wrist (carpal tunnel syndrome) and mild right median neuropathy at the wrist. However, Dr. McDonald did not provide any history or any of the claimed injury opinion regarding whether appellant's employment caused or contributed to her condition.⁵ Therefore, his reports are insufficient to establish her carpal tunnel syndrome or median neuropathy as employment related.

Dr. Hocker noted that appellant experienced left hand problems for six months, associated finger numbness and shoulder pain and diagnosed bilateral carpal tunnel syndrome. However, the physician did not list a history of the claimed injury or provided an opinion addressing how appellant's employment caused or contributed to her condition.⁶ These reports, are too, insufficient to establish the claim.

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 the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.⁷ Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office properly denied her claim for compensation.⁸

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 her burden of proof.

⁴ *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).

⁵ *Id.*

⁶ *See Jimmie H. Duckett*, *supra* note 4.

⁷ *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁸ On appeal, appellant submitted additional medical 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 March 3, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 13, 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