

Appellant submitted a September 20, 2005 report from Dr. Mitchell B. Lowenstein, a Board-certified internist, specializing in rheumatology, who began treating appellant on October 12, 2000 for rheumatoid and osteoarthritis. Dr. Lowenstein reviewed the following: a May 18, 2005 nerve conduction study, which was consistent with peripheral neuropathy; a May 12, 2005 x-ray of the lumbar spine, which revealed degenerative disc disease and osteoarthritis; a May 12, 2005 x-ray of the right hip, which revealed osteoarthritis; a December 13, 2004 x-ray of the cervical spine, which revealed C1-2 subluxation; an August 31, 2004 magnetic resonance imaging (MRI) scan of the right carpals; an August 6, 2003 x-ray of the hands and wrists, which revealed carpal collapse and erosion consistent with rheumatoid arthritis; a February 8, 2003 x-ray of the feet and ankles, which showed soft tissue calcification with joint space narrowing, swelling, cysts, hypertrophic changes and erosions consistent with rheumatoid and osteoarthritis; an August 13, 2002 x-ray of the hands and wrists, which revealed evidence of rheumatoid arthritis; a January 2, 2002 chest x-ray, which showed mild degenerative arthritis of the thoracic spine; an October 12, 2000 x-ray of the cervical spine, which showed straightening consistent with spasm; and October 12, 2000 x-rays of the hands, wrists, feet and knees, which revealed evidence of osteoarthritis. He provided diagnoses of osteoarthritis in the thoracic and lumbar spine, hip, knees, hands, fingers, thumbs, wrists, feet and ankles; and rheumatoid arthritis in the hands, wrists, feet and ankles. Dr. Lowenstein opined that appellant's condition was aggravated and hastened by his duties as a mail carrier for 23 years which included: constant walking; repetitive motion of the hands, wrist and feet, lifting of heavy parcels, extended standing, reaching and bending; and operating a mail delivery vehicle. Specifically, Dr. Lowenstein noted that appellant was required to stand 2.5 to 3.5 hours per day. Mail delivery required him to climb in and out of his vehicle 10 to 40 times per day and to repetitively grip the wheel and twist to pick up parcels. Appellant had to walk quickly and pivot in order to case letters and small parcels. Repeated lifting, reaching up to seven feet, grabbing, twisting, turning, bending, grasping and gripping caused stress on his hands, elbows, shoulders, neck, hips, feet, knees and ankles. Dr. Lowenstein opined that these repetitive motions aggravated and accelerated the expected natural history of physical changes associated with rheumatoid and osteoarthritis.

By letter dated November 2, 2005, the Office informed appellant that the evidence submitted was insufficient to establish his claim and advised him to provide a statement describing the employment activities that he believed caused or aggravated his condition. The Office also advised appellant to submit a report from his physician explaining how the alleged job activities caused a material worsening of his condition, as opposed to a natural progression of the disease. Appellant submitted an application for employment dated October 5, 1982.

By decision dated December 15, 2005, the Office denied appellant's claim. The Office found that the medical evidence of record was insufficient to establish that appellant's claimed condition was related to the established work-related events.

On February 15, 2006 appellant requested reconsideration of the December 15, 2005 decision. In support of his request, appellant submitted an undated statement delineating the work tasks contributing to his claimed condition. Casing mail two to three hours per day, which involved picking up 10- to 30-pound trays and tubs, putting letters away and removing straps and wrappings from bundled flats, required repeated kneeling, bending, stooping, lifting, twisting and grasping. Delivering mail required reaching, twisting and turning to gather and insert mail into

boxes. The repetitive process of walking down a ramp, unlocking the door of his vehicle and starting the engine, created pain in appellant's toes, feet, fingers and hands. Loading the truck, which required lifting packages weighing up to 70 pounds and climbing in and out of his vehicle over 70 times per day, aggravated his condition.

Appellant submitted a February 13, 2006 report from Dr. Lowenstein who reviewed the history of his injury. Dr. Lowenstein opined that appellant's rheumatoid and osteoarthritis condition resulted from and was aggravated, exacerbated and worsened by the long-term effects of his daily duties as a carrier, which included standing on his feet 2.5 to 3.5 hours per day repeatedly lifting, carrying and moving bundles of magazines and tubs of mail weighing 10 to 30 pounds each; frequently stooping, bending and kneeling; and repeatedly placing mail into individual mail slots. These activities caused pain, stiffness, numbness and decreased range of motion in appellant's arms, wrists, hands, elbows, shoulders, low back, hips, feet, ankles and neck. Loading his truck for delivery; lifting heavy tubs and trays above his waist; delivering mail, which required frequent twisting, leaning, grasping and gripping; and climbing in and out of his truck from 20 to 60 times per day, contributed to his current condition. Appellant submitted unsigned physician's notes from Dr. Lowenstein for the period December 23, 2003 through February 14, 2006.

On March 3, 2006 the Office asked Dr. Lowenstein to provide objective evidence to support the opinion expressed in his February 13, 2006 report, including treatment notes and results of diagnostic tests. By letter dated March 21, 2006, the employing establishment stated that mail tubs rarely weighed over 10 pounds and parcels rarely weighed as much as 70 pounds.

By decision dated April 18, 2006, the Office denied modification of its December 15, 2005 decision finding that the evidence of record was insufficient to establish a causal relationship between factors of employment and a diagnosed condition. The Office stated that appellant had provided no medical opinion based on objective findings and rationale explaining why his claimed conditions were aggravated or accelerated by factors of employment.

On July 19, 2006 appellant again requested reconsideration. In support of his request, appellant submitted an August 13, 2002 report of an x-ray of the hands, a February 18, 2003 report of an x-ray of the feet and ankles; an August 6, 2003 report of an x-ray of the wrists and hands; a report of an August 31, 2004 MRI scan of the right metacarpophalangeal (MCP), metatarsophalangeal (MTP) and carpals and a September 1, 2004 MRI scan of the left MCP, MTP and carpals; a December 13, 2004 report of an x-ray of the cervical spine, a May 12, 2005 report of an x-ray of the right hip, a May 12, 2005 report of an x-ray of the lumbar spine, a May 18, 2005 report of a nerve conduction study; June 3, 2005 laboratory results from the Arthritis Center of Florida, a report of a February 22, 2006 MRI scan of the right MCP, MTP and carpals and a February 28, 2006 MRI scan of the left MCP, MTP and carpals; and May 23, 2005, February 16, 2006 and March 2, 2006 laboratory results from the Arthritis Center of Florida.

In a July 17, 2006 report, Dr. Lowenstein stated that the condition of appellant's hands was so severe that the repetitive use of his hands aggravated his condition and caused "flares" that required treatment. He indicated that appellant had permanent flexion contractures and deformities of his hands caused by rheumatoid arthritis and repeated overuse from years of handling mail during the performance of his job duties. Dr. Lowenstein noted that the lifting and

handling of heavy mail tubs, sacks and trays of mail aggravated the joints and tendons in appellant's hands and feet. The bending and twisting required by the job aggravated pain in all affected joints, tendons and ligaments identified in appellant's February 13, 2006 report. Standing for extended periods of time also exacerbated his condition. Dr. Lowenstein opined that, when appellant's rheumatoid arthritis was aggravated by his work duties, he had pain, stiffness and swelling in the joints, caused by increased inflammation, which further aggravated his condition and caused continuing damage to his joints. He recommended that appellant be restricted from walking more than one block, lifting more than 25 pounds, carrying more than 5 pounds and standing for more than 90 minutes at a time.

By decision dated October 5, 2006, the Office denied modification of its previous orders. The Office found that the medical evidence presented was not supported by objective findings or medical rationale necessary to establish a material aggravation or acceleration of his chronic underlying rheumatoid arthritis condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his 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

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).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

An award of compensation may not be based on appellant's belief of causal relationship. 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 a causal relationship.⁵ However, it is well established that proceedings under the Act are not adversarial in nature and while the claimant has the burden of establishing entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.⁶

ANALYSIS

The Board finds that this case is not in posture for decision regarding whether appellant established that his rheumatoid and osteoarthritis were aggravated by factors of his employment.

The record contains numerous reports from appellant's treating physician, Dr. Lowenstein, a Board-certified internist specializing in rheumatology. In his September 20, 2005 report, Dr. Lowenstein reviewed a May 18, 2005 nerve conduction study, which was consistent with peripheral neuropathy; a May 12, 2005 report of an x-ray of the lumbar spine, which revealed degenerative disc disease and osteoarthritis; a May 12, 2005 report of an x-ray of the right hip, which revealed osteoarthritis; a December 13, 2004 report of an x-ray of the cervical spine, which revealed C1-2 subluxation; an August 31, 2004 report of an MRI scan of the right carpals; an August 6, 2003 report of an x-ray of the hands and wrists, which revealed carpal collapse and erosion consistent with rheumatoid arthritis; a February 8, 2003 report of an x-ray of the feet and ankles, which showed soft tissue calcification with joint space narrowing, swelling, cysts, hypertrophic changes and erosions consistent with rheumatoid and osteoarthritis; an August 13, 2002 report of an x-ray of the hands and wrists, which revealed evidence of rheumatoid arthritis; a January 2, 2002 report of a chest x-ray, which showed mild degenerative arthritis of the thoracic spine; an October 12, 2000 report of an x-ray of the cervical spine, which showed straightening consistent with spasm; and October 12, 2000 reports of x-rays of the hands, wrists, feet and knees, which revealed evidence of osteoarthritis. Dr. Lowenstein diagnosed osteoarthritis in the thoracic and lumbar spine, hip, knees, hands, fingers, thumbs, wrists, feet and ankles; and rheumatoid arthritis in the hands, wrists, feet and ankles. He opined that appellant's condition was aggravated and hastened by his duties as a mail carrier for 23 years, which included constant walking; repetitive motion of the hands, wrist and feet; lifting of heavy parcels; extended standing; reaching and bending; and operating a mail delivery vehicle. Specifically, Dr. Lowenstein noted that appellant was required to stand 2.5 to 3.5 hours per day. Mail delivery required appellant to climb in and out of his vehicle 10 to 40 times per day and to

⁴ *Id.*

⁵ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁶ *Phillip L. Barnes*, 55 ECAB 426 (2004); *see also Virginia Richard*, claiming as executrix of the estate of *Lionel F. Richard*, 53 ECAB 430 (2002); *Dorothy L. Sidwell*, 36 ECAB 699 (1985); *William J. Cantrell*, 34 ECAB 1233 (1993).

repetitively grip the wheel and twist to pick up parcels. He had to walk quickly and pivot in order to case letters and small parcels. Repeated lifting, reaching up to seven feet, grabbing, twisting, turning, bending, grasping and gripping caused stress on his hands, elbows, shoulders, neck, hips, feet, knees and ankles. Dr. Lowenstein opined that these repetitive motions aggravated and accelerated the expected natural history of physical changes associated with rheumatoid and osteoarthritis. On February 13, 2006 he opined that appellant's rheumatoid and osteoarthritis resulted from and was aggravated, exacerbated and worsened by, the long-term effects of his daily duties as a carrier, which he delineated. Standing on his feet 2.5 to 3.5 hours per day; repeatedly lifting, carrying and moving bundles of magazines and tubs of mail weighing 10 to 30 pounds each; frequently stooping, bending and kneeling; and repeatedly placing mail into individual mail slots, caused pain, stiffness, numbness and decreased range of motion in appellant's arms, wrists, hands, elbows, shoulders, low back, hips, feet, ankles and neck. Loading his truck for delivery, lifting heavy tubs and trays above his waist, delivering mail, which required frequent twisting, leaning, grasping and gripping; and climbing in and out of his truck from 20 to 60 times per day contributed to his current condition. In his July 17, 2006 report, Dr. Lowenstein stated that the condition of appellant's hands was so severe that the repetitive use of his hands aggravated his condition and caused "flares" that required treatment. He indicated that appellant had permanent flexion contractures and deformities of his hands caused by rheumatoid arthritis and repeated overuse from years of handling mail during the performance of his job duties. Dr. Lowenstein noted that the lifting and handling of heavy mail tubs, sacks and trays of mail, aggravated the joints and tendons in appellant's hands and feet. The bending and twisting required by the job aggravated pain in all affected joints, tendons and ligaments identified in his February 13, 2006 report. Standing for extended periods of time also exacerbated his condition. Dr. Lowenstein opined that, when appellant's rheumatoid arthritis was aggravated by his work duties, he had pain, stiffness and swelling in the joints, caused by increased inflammation, which further aggravated his condition and caused continuing damage to his joints.

The Board notes that, while none of the medical reports submitted in support of appellant's claim is completely rationalized, all of the reports are consistent in indicating that his rheumatoid and osteoarthritis were aggravated by factors of his employment. Moreover, they are not contradicted by any medical or factual evidence of record. Having discussed the results and implications of numerous MRI scans, x-rays and nerve conduction studies which occurred during the period of his treatment of appellant beginning in 2000, Dr. Lowenstein expressed his unequivocal opinion that appellant's rheumatoid and osteoarthritis resulted from and were aggravated, exacerbated and worsened by the long-term effects of his daily duties as a carrier. Dr. Lowenstein showed an understanding of appellant's employment duties and explained how the job activities caused a material worsening of his condition. The Office found that the medical evidence presented was not supported by objective findings or medical rationale necessary to establish a material aggravation or acceleration of his chronic underlying rheumatoid arthritis condition. However, while Dr. Lowenstein's reports are not sufficient to meet appellant's burden of proof to establish his claim, they raise an uncontroverted inference between his claimed conditions and the identified employment factors and are sufficient to require the Office to further develop the medical evidence and the case record.⁷

⁷ See *Jimmy A. Hammons*, 51 ECAB 219 (1999); *John J. Carlone*, 41 ECAB 354 (1989).

On remand the Office should submit the statement of accepted facts to appellant's treating physician or to a second opinion examiner, in order to obtain a rationalized opinion as to whether his rheumatoid arthritis and osteoarthritis was aggravated by factors of his employment.

CONCLUSION

The Board finds that this case is not in posture for decision as to whether or not appellant has met his burden of proof in establishing that his rheumatoid arthritis and osteoarthritis was aggravated by factors of his employment.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated October 5 and April 18, 2006 and December 15, 2005 are set aside and the case is remanded for further development consistent with this decision.

Issued: April 18, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board