

and weakness of the fingers on her right hand due to “constant and repetitive use of [her] hands” while casing and delivering mail. She did not stop work at the time she filed her claim.

In a March 6, 2007 letter, the Office advised appellant of the type of additional evidence needed to establish her claim. It requested a detailed description of the work factors she alleged caused the claimed right hand condition. The Office also emphasized the importance of submitting a rationalized statement from her attending physician explaining how and why her work duties would cause the claimed conditions.

Appellant submitted an April 17, 2007 report from Dr. Mehdi N. Adham, an attending Board-certified orthopedic surgeon, who stated that appellant had “carpal tunnel syndrome which history, physical examination and nerve test [were] all positive.” Dr. Adham opined that the “cause of [appellant’s] symptoms [was] related to working as a mail carrier.”

By decision dated June 28, 2007,¹ the Office denied appellant’s claim on the grounds that causal relationship was not established. It accepted that appellant’s duties required repetitive use of the right hand. However, Dr. Adham did not provide a history of injury referencing specific work factors or explain how her federal duties would cause the diagnosed conditions.

In a letter dated September 20, 2007 and date stamped received by the Office’s Branch of Hearings and Review on September 27, 2007, appellant requested a review of the written record. The envelope and postmark of the hearing request are not of record. Appellant submitted additional evidence.

An April 9, 2007 nerve conduction velocity testing of the right upper extremity showed sensory and motor abnormalities in the median nerve at the wrist and the ulnar nerve at the wrist and elbow.

In a July 16, 2007 report, Dr. Adham related appellant’s account of heavy lifting at the employing establishment, with recent numbness and tingling in the right hand. On examination of the right hand and wrist, he found positive Tinel’s and Phalen’s signs, a positive Tinel’s sign at the ulnar nerve, positive flexion test, a tender radial tunnel and a dorsal wrist ganglion. Dr. Adham diagnosed a right dorsal wrist ganglion, right carpal and radial tunnel syndromes and right cubital canal syndrome. He opined that the cause of appellant’s “carpal tunnel, cubital canal, radial tunnel syndrome and ganglion are related to her job accumulative trauma disorder” due to working 30 years as a letter carrier. Dr. Adham recommended carpal and radial tunnel surgery with excision of the ganglion.

By decision dated October 18, 2007, the Office denied appellant’s request for a review of the written record on the grounds that it was not timely filed. It found that appellant’s request for a hearing was dated September 20, 2007, more than 30 days after issuance of its June 28, 2007 decision. The Office additionally denied appellant’s request on the grounds that the issues involved could be addressed equally well by requesting reconsideration and submitting new

¹ The Office issued two copies of the June 28, 2007 decision, the second with a corrected address. The two decisions are otherwise identical.

evidence establishing that the claimed right hand and wrist conditions were causally related to factors of her federal employment.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under the Federal Employees' Compensation 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 filed within the applicable time limitation; that an injury was sustained while 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

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 the 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.⁵

ANALYSIS -- ISSUE 1

The Office accepted that appellant's work as a letter carrier entailed lifting and repetitive hand and wrist motion. Also, appellant submitted April 9, 2007 studies confirming the presence of right carpal and ulnar nerve syndromes and medical reports diagnosing cubital tunnel syndrome and a dorsal ganglion. To meet her burden of proof, she must establish a causal relationship between the accepted work factors and the claimed right hand and wrist conditions.

² 5 U.S.C. §§ 8101-8193.

³ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *Alvin V. Gadd*, 57 ECAB 172 (2005); *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Michael S. Mina*, 57 ECAB 379 (2006); *Solomon Polen*, 51 ECAB 341 (2000).

In support of her claim, appellant submitted April 17 and July 16, 2007 reports from Dr. Adham, an attending Board-certified orthopedic surgeon, who noted that appellant had worked as a letter carrier for 30 years and performed heavy lifting. Dr. Adham opined that appellant's carpal tunnel, cubital canal and radial tunnel syndromes and dorsal ganglion were related to "accumulative trauma disorder" sustained while "working as a mail carrier." However, he did not provide medical rationale explaining how and why heavy lifting, casing mail, delivering mail or other specific work tasks would cause any of the diagnosed conditions. Thus, Dr. Adham's opinion is insufficient to establish causal relationship in this case.⁶ The Board notes that appellant was advised by March 6, 2007 letter of the crucial importance of submitting rationalized medical evidence in support of her claim. However, appellant did not submit such evidence. Therefore, she failed to meet her burden of proof.

LEGAL PRECEDENT -- ISSUE 2

Section 8124(b)(1) of the Act provides that "a claimant for compensation not satisfied with a decision of the Secretary ... is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his claim before a representative of the Secretary."⁷ Sections 10.617 and 10.618 of the federal regulations implementing this section of the Act provide that a claimant shall be afforded a choice of an oral hearing or a review of the written record by a representative of the Secretary.⁸ The Office's procedures, which require the Office to exercise its discretion to grant or deny a hearing when the request is untimely or made after reconsideration, are a proper interpretation of the Act and Board precedent.⁹

ANALYSIS -- ISSUE 2

The Office denied appellant's claim by June 28, 2007 decision. Appellant's letter requesting a review of the written record was dated September 20, 2007 and stamped received by the Office's Branch of Hearings and Review on September 27, 2007. Both these dates are more than 30 days after the June 28, 2007 decision. Thus, the Office properly found that appellant's request for a review of the written record was not timely filed under section 8124(b)(1) of the Act and that he was not entitled to an examination of the written record as a matter of right.

The Office then exercised its discretion and determined that appellant's request for a review of the written record could equally well be addressed by requesting reconsideration and submitting additional evidence establishing that the claimed right carpal tunnel syndrome was causally related to her federal employment. As the only limitation on the Office's authority is reasonableness, abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions as established.¹⁰ The Board finds that there is no evidence of record that the

⁶ *Sedi L. Graham*, 57 ECAB 494 (2006).

⁷ 5 U.S.C. § 8124(b)(1).

⁸ 20 C.F.R. §§ 10.616, 10.617.

⁹ *Hubert Jones, Jr.*, 57 ECAB 467 (2006).

¹⁰ *Joseph P. Hoffman*, 57 ECAB 456 (2006).

Office abused its discretion in denying appellant's request. Thus, the Board finds that the Office's denial of appellant's request for a review of the written record was proper under the law and the facts of this case.

CONCLUSION

The Board finds that appellant has not established that she sustained right carpal tunnel syndrome in the performance of duty. The Board further finds that the Office properly denied appellant's request for a review of the written record.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated October 18 and June 28, 2007 are affirmed.

Issued: August 7, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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