

aggravated bilateral thoracic outlet syndrome, bilateral carpal tunnel syndrome¹ and depression. Her job involved preparing time sheets and corrections for 300 employees.

In an August 23, 2006 letter, the Office advised appellant of the additional evidence needed to establish her claim.

In a September 14, 2006 letter, Shirley Willoughby, appellant's supervisor, stated that during the week of April 17, 2006, appellant informed her that she changed physicians and felt unwell due to new blood pressure medication. Appellant was absent from April 15 to 24, 2006 because of a death in her family. Another timekeeper was absent from April 7 to 28, 2006. A clerk was absent on April 7, 11, 13 and 18 to 21, 2006. Coworkers assumed the timekeeping duties of the absent employees. Thus, appellant's time cards were up to date when she returned to work on April 25, 2006. Ms. Willoughby emphasized that appellant "was doing her own work assignment, no extra duties were done [by appellant]."

By decision dated October 26, 2006, the Office denied appellant's claim on the grounds that fact of injury was not established. It found that appellant had not established that she performed extra work in April 2006.

In a November 17, 2006 letter, appellant requested an oral hearing held on March 22, 2007. At the hearing, she asserted that an April 3, 2006 e-mail from Ms. Willoughby confirmed that she was asked to perform the work of two timekeepers. Appellant contended that her workload doubled from April 25 to 27, 2006.

Ms. Willoughby submitted comments to the hearing transcript. She contended that appellant did not have an increased workload in April 2006 and that all timecards were up to date when appellant returned to work on April 25, 2006. Ms. Willoughby denied bringing work to appellant's desk. She alleged that appellant often shirked her duties to accommodate her paralegal studies.²

Appellant submitted additional evidence following the hearing.³ In an October 25, 2006 letter, she asserted that, on April 7, 2006, Ms. Willoughby came to her desk with the absent

¹ Under File No. xxxxxx014, the Office accepted that appellant sustained bilateral carpal tunnel syndrome on or before February 25, 1999, requiring bilateral median nerve decompression. This claim included records through September 12, 2001. It created File No. xxxxxx079 for records pertaining to a claimed September 19, 2001 occupational injury. This claim included records from September 2001 through May 2002. Under File No. xxxxxx721, the Office denied appellant's claim for a June 14, 2002 upper extremity injury. These claims are not before the Board on the present appeal.

² Anne D. Ward, an employing establishment official, submitted comments to the transcript on April 25, 2007. She stated that appellant had a pattern of calling in sick on days critical to the payroll processing. Appellant was removed from federal employment on September 19, 2006 due to leave irregularities.

³ Appellant also submitted test results and chart notes regarding treatment for accepted carpal tunnel syndrome through September 12, 2001 under File No. xxxxxx014. She also submitted medical reports discussing carpal tunnel and thoracic outlet syndromes dated from April to December 2002. In a January 23, 2002 report, Dr. Joanne Perilstein, an attending licensed clinical psychologist, diagnosed depression. These reports do not address appellant's medical condition on and after April 2006. Appellant also submitted documents regarding work conditions in April 2004.

timekeeper's work and instructed her to complete it. When appellant returned to work on April 25, 2006, there was a backlog of five days of work for almost 600 employees. On April 25, 26 and 27, 2006 she "stayed extra hours to catch up on the backlog of work and to meet the release deadline of the following Monday." On April 28, 2006 appellant awoke at 4:00 a.m. with neck and arm pain and swelling. She was taken to the hospital.

In an April 3, 2006 e-mail, Ms. Willoughby referred to her conversation with appellant earlier that day. She had informed appellant that a coworker "would be out for an estimated three weeks and [appellant] would have to complete his work load. [Appellant] in turn explained to [Ms. Willoughby] that [she] would not be able to complete his assignment because of [her] carpal tunnel." Ms. Willoughby requested appellant's "statement in writing as to why [she] will not be able to complete his work assignment."

In an April 28, 2006 emergency room form, a nurse noted that appellant presented with chest pain, hypertension and vomiting. Appellant was monitored for a possible heart attack. An April 29, 2006 discharge form notes a diagnosis of thoracic outlet syndrome.

In a November 8, 2006 report, Dr. Scott M. Fried, an attending osteopathic physician Board-certified in orthopedic surgery, provided a history of injury and treatment for carpal tunnel syndrome and thoracic outlet syndrome beginning in 1999. He related appellant's account of an increased workload from April 25 to 27, 2006. Dr. Fried submitted progress notes through February 2007.

By decision dated and finalized June 13, 2007, an Office hearing representative affirmed the October 26, 2006 decision, finding that appellant failed to establish an increased workload in April 2006.

In an October 23, 2007 letter, appellant requested reconsideration. She submitted additional evidence.

In undated comments on the hearing transcript, appellant contended that work was not up to date on April 25, 2006 as postings were always a day behind. She asserted that it took her over eight hours to complete the other timekeeper's work on April 25, 2006 and another eight hours on April 26, 2006. Ms. Willoughby responded to appellant's comments on November 16, 2007. She asserted that appellant only posted her own normally assigned time and leave units in the system. Appellant responded by January 11, 2008 letter, asserting that Ms. Willoughby and other supervisors harassed her and conspired against her.

In a May 4, 2006 report, Dr. Marisa A. Rogers, a Board-certified internist who treated appellant in the hospital from April 28 to May 1, 2006, diagnosed unspecified chest pain, essential hypertension and a subscapular liver hematoma. Dr. Fried submitted November 8, 2006 and June 18, 2007 reports noting stable upper extremity symptoms.

By decision dated January 24, 2008, the Office denied modification of the June 13, 2007 decision. It found that appellant had not established that she performed extra work from April 26 to 28, 2006. Also, appellant did not submit medical evidence contemporaneous to the claimed April 28, 2006 injury establishing that the identified work factors caused any medical

condition. The Office noted that the April 2006 hospital records did not contain a diagnosis of depression.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁴ 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.⁵ 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.⁶

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.⁷

ANALYSIS

Appellant claimed that she sustained an aggravation of carpal tunnel syndrome, thoracic outlet syndrome and depression due to an increased workload from April 25 to 27, 2006. The medical record demonstrates that she had bilateral carpal tunnel syndrome and a history of thoracic outlet syndrome. Appellant established the presence of the claimed orthopedic conditions. The Board notes that the April 2006 hospital records and subsequent medical reports do not diagnose depression.

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ *Solomon Polen*, 51 ECAB 341 (2000).

Appellant must also establish as factual that she performed additional work from April 25 to 27, 2006 as alleged. The Office did not accept the increased workload as factual. Appellant's supervisor submitted September 14, 2006 and November 16, 2007 letters explaining in detail that appellant was not assigned any extra work from April 25 to 27, 2006. Appellant performed only her regularly assigned duties during that time. Although she submitted an April 3, 2006 e-mail from her supervisor asking her to explain why she could not assume additional duties, this document does not establish that appellant did any extra work.

The weight of the factual evidence does not support that the increased workload occurred as alleged. The Board finds that appellant has not met her burden of proof to establish the identified work factors as factual.⁸ Therefore, appellant did not establish a *prima facie* claim for compensation benefits under the Act.⁹ The Board notes that the medical opinion evidence is of little probative value as the weight of the factual evidence does not establish the claimed increased workload. For these reasons, the Board will affirm the denial of appellant's claim for compensation.¹⁰

CONCLUSION

The Board finds that appellant has not established that she sustained an aggravation of carpal tunnel syndrome, thoracic outlet syndrome or depression in the performance of duty.

⁸ *M.W.*, 57 ECAB 710 (2006).

⁹ *Frankie A. Farinacci*, 56 ECAB 723 (2005).

¹⁰ *Supra* note 8.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated January 24, 2008 and June 13, 2007 are affirmed.

Issued: December 24, 2008
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