

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

A.C., Appellant)
and) Docket No. 07-2139
DEPARTMENT OF LABOR, OFFICE OF) Issued: February 14, 2008
WORKERS' COMPENSATION PROGRAMS)
Jacksonville, FL, 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
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 9, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated July 26, 2007 which denied his claim for an occupational disease. Pursuant to C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of his claim.

ISSUE

The issue is whether appellant established that he sustained a degenerative cervical condition causally related to his previously accepted occupational injury.

FACTUAL HISTORY

On February 25, 2004 appellant, then a 48-year-old claims examiner, filed an occupational disease claim, alleging that he sustained carpal tunnel syndrome in the performance of duty. His claim was accepted for bilateral carpal tunnel syndrome on April 5, 2004. On March 1, 2004 appellant had surgery on his right wrist.

On March 12, 2006 appellant requested that his claim be expanded to include “spondylosis L5-6.” It was subsequently determined that he was claiming spondylosis of the cervical, not lumbar spine. Appellant claimed that his neurosurgeon told him he has a “double crutch syndrome” whereby his two conditions are served by¹ the same block of nerves and therefore one condition can aggravate the other.

This is the second appeal of this claim before the Board. By decision dated May 17, 2007, the Board affirmed the Office’s November 21, 2006 decision on the grounds that appellant had not met his burden of proof to establish that his cervical spondylosis was causally related to his previously accepted carpal tunnel syndrome. The facts of this case, as set forth in the prior decision, are incorporated herein by reference.

On May 24, 2007 appellant requested that the Office again reconsider his case. He alleged that he had established a *prima facie* case and was therefore entitled to a second opinion evaluation. Appellant also argued that he had obtained new medical evidence which established his claim. The additional medical evidence submitted consisted of three reports. In an April 30, 2007 note, Dr. Ashutosh Pradhan, a neurosurgeon, stated that appellant would undergo surgery on May 2, 2007 for ulnar neuropathy which was caused by repetitive use motion. In an April 2, 2007 note, he found that appellant demonstrated symptoms of both ulnar neuropathy and cervical radiculopathy. In a May 23, 2007 letter, Dr. Keith Holden, a family practitioner, reviewed appellant’s medical history. He opined that appellant was unable to perform his work duties due to severe multilevel degenerative disc disease of the cervical spine with associated disc herniation and neural impingement causing bilateral upper extremity radiculopathy symptoms. Dr. Holden also opined that appellant’s multiple orthopedic and neurologic conditions were aggravated by the repetitive arm and hand movements required by his federal work duties and that he was totally disabled at this time.

On June 12, 2007 appellant filed a claim for compensation for leave without pay for the time period June 10, 2007 and continuous. On June 28, 2007 he filed a claim for leave without pay from June 23, 2007 continuous. On July 17, 2007 appellant filed a claim for leave without pay from July 7, 2007 and continuing. He was placed on the periodic roll on July 21, 2007.

In a July 26, 2007 merit decision, the Office addressed appellant’s request for reconsideration and denied modification of the prior decisions. The Office found that the medical evidence did not offer medical rationale in support of the conclusion that appellant’s cervical condition was caused or aggravated by appellant’s work duties or his bilateral carpal tunnel syndrome.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As

¹ Docket No. 07-432 (issued May 17, 2007).

part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation.²

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.³ Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion 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 established incident or factor of employment.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 causal relationship.⁵

ANALYSIS

Appellant claimed that he sustained a cervical condition in the performance of duty causally related to his previously accepted carpal tunnel syndrome. He requested that the condition of cervical spondylosis C5-6 be accepted as an additional condition. The Office denied expansion of the claim.

The issue is whether there is sufficient medical evidence to establish a causal relation between appellant's accepted conditions and his diagnosed cervical condition. The Board finds that the medical evidence presented does not contain the necessary rationalized medical opinion to establish that appellant's cervical spondylosis is causally related to his accepted carpal tunnel condition.

Appellant was diagnosed with cervical disc degeneration, degenerative disc disease, ulnar neuropathy and cervical radiculopathy. The Office has accepted his claim for carpal tunnel syndrome, cubital tunnel syndrome and left wrist ganglion cyst.

² *Kimper Lee*, 45 ECAB 565 (1994).

³ See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

⁴ *John W. Montoga*, 54 ECAB 306 (2003).

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

Since the last review of the evidence by the Board, appellant has submitted reports from Drs. Pradhan and Holden and Dr. Dennis D. Dewey. Dr. Dewey diagnosed degenerative disc disease. He also found a mild slowing of the ulnar motor conduction across the left elbow, however, he stated that these findings did not fully explain appellant's symptoms. Dr. Dewey did not identify a cause of appellant's conditions in any of his reports. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.⁶ Dr. Pradhan diagnosed appellant with ulnar neuropathy and cervical radiculopathy but he did not offer an opinion as to the cause of these conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁷ Dr. Holden diagnosed cervical disc degeneration. He also presented appellant's recent medical history of neck and arm problems since March 2004. Dr. Holden opined that appellant's orthopedic and neurologic conditions were aggravated by repetitive arm and hand movements required by appellant's federal work related to typing. While he did opine that appellant's typing at work aggravated his conditions, Dr. Holden did not identify how much typing appellant performed in the course of his employment and he did not explain how typing could aggravate appellant's specific conditions. It is not enough to simply state that appellant's work aggravates his condition. Medical opinions must be supported by an adequate medical rationale. Dr. Holden provided no rationale to support his opinion on causal relation. In order to establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.⁸

Appellant argued that he did not have cervical degenerative disc disease prior to working at his position but did a couple of years afterwards. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁹

As there is no probative, rationalized medical evidence addressing how appellant's claimed cervical condition was caused or aggravated by his employment he has not established a *prima facie* claim and he has not met his burden of proof in establishing that he sustained an injury in the performance of duty causally related to factors of his federal employment.

CONCLUSION

Appellant has not met his burden to establish that his cervical spondylosis is causally related to his previously accepted carpal tunnel syndrome.

⁶ *D.D.*, 57 ECAB ____ (Docket No. 06-1315, issued September 14, 2006).

⁷ *Michael E. Smith*, 50 ECAB 313 (1999).

⁸ *Calvin E. King*, 51 ECAB 394 (2000).

⁹ *Roy L. Humphrey*, 57 ECAB ____ (Docket No. 05-1928, issued November 23, 2005) citing *Joe T. Williams*, 44 ECAB 518, 521 (1993).

ORDER

IT IS HEREBY ORDERED THAT the July 26, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 14, 2008
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