



October 21 and August 5, 2005 Office decisions that denied his claim. The facts of this case, as set forth in the prior decisions, are incorporated herein by reference.

On May 25, 2005 appellant, then a 42-year-old medical technologist, filed an occupational disease claim alleging that he sustained an injury to his hands caused by repetitive tasks involving his hands and wrists such as entering data into a computer, opening bottles, setting up specimens and reading culture plates. These tasks involved wrist bending and other stressful hand postures. Appellant moved a 75-pound gas tank three times a week.<sup>2</sup> He had been performing these tasks for 11 years at the employing establishment. As the staff of medical technologists had been reduced from seven to three, he increased use of his hands. Appellant noted that a coworker had a claim accepted for carpal tunnel syndrome.

On June 16, 2007 appellant requested reconsideration of his claim. He submitted an April 13, 2007 report from Dr. S. Vic Glogovac, an attending hand surgeon, who stated:

“[Appellant] feels quite strongly that his work tasks and activities were a significant aggravation bringing on numbness, tingling and pain in his hands. This led him to seek medical intervention and resulted in the carpal tunnel decompressions. According to [appellant’s] distinct history, his work<sup>3</sup> environment was the significant aggravating factor leading to his carpal tunnel decompressions.”

In a June 8, 2007 report, Dr. Glogovac stated that he first evaluated appellant on May 13, 2005 for a history of nocturnal paresthesia and numbness involving both hands. In early 2004, he noted his hands going numb at work and he dropped objects. In early 2005, appellant began to experience pain and numbness in his hands at night. When he was not working, his hands significantly improved. Appellant was on a trip for one month and, during that time, he experienced no hand symptoms. When he returned to work, he again experienced paresthesia at work and at night. Appellant denied having any personal activities that caused symptoms in his hands. Electromyographic and nerve conduction studies were “unrevealing.” Dr. Glogovac stated:

“Exam[ination] on June 13, 2005 is indicative of carpal tunnel syndrome with positive Phalen’s Test bilaterally at 10 seconds on the left and 15 seconds on the right. Two-point discrimination was abnormal in both hands. He had previously tried splinting which was not successful. We discussed surgical decompression in a sequential fashion which was carried out. In both instances, the nerve showed significant flattening consistent with the diagnosis of carpal tunnel syndrome which had been made. He also showed improvement following the surgeries.

“[Appellant] stated that there were 10 people working in the lab when he came in 1993. That number went down to three and his work increased significantly.

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<sup>2</sup> On May 11, 2007 appellant advised the Office that the tanks weighed 150 pounds.

<sup>3</sup> The word “work” was handwritten into the typed report. It is not clear who added the word “work” to the report.

[Appellant] was using his hand more actively moving gas tanks weighing more than 75 pounds three times a week. He had to use his hand in a repetitive grasping and manipulative motion for a 14-year period previous to his presentation.

“[Appellant] states that it was the work situation that caused him to seek medical treatment for the numbness and tingling[,] denying other circumstances producing the numbness and tingling. Again, it is [appellant’s] distinct history of the significant aggravating factor which I am relying on to state to you that[,] according to his history as given to me[,] the significant aggravating factor was his work as noted above.”

On July 27, 2007 Sandra Gibson, appellant’s supervisor, stated that she had not observed appellant pushing gas tanks for some time. The tanks were generally moved by two female employees or one male employee (not appellant). Tanks were usually changed only twice a week. There were currently seven employees who performed approximately 20,000 to 30,000 tests a year. Previously, when there were 10 employees, approximately 50,000 tests were performed each year.

By decision dated August 24, 2007, the Office denied appellant’s claim on the grounds that the medical evidence did not establish that his bilateral carpal tunnel syndrome was caused or aggravated by his employment.<sup>4</sup>

### **LEGAL PRECEDENT**

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 evidence.<sup>5</sup> 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 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

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<sup>4</sup> Subsequent to the August 24, 2007 Office decision, appellant submitted additional evidence. The Board’s jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

<sup>5</sup> *Michael S. Mina*, 57 ECAB \_\_\_ (Docket No. 05-1763, issued February 7, 2006).

the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>6</sup>

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his claimed injury and his employment.<sup>7</sup> To establish a 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 physical examination of appellant and his medical history, state whether the employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his or her opinion.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained bilateral carpal tunnel syndrome causally related to factors of his employment.

On April 13, 2007 Dr. Glogovac stated that appellant believed that his work tasks caused numbness, tingling and pain in his hands. He had to use his hands in repetitive motions for a 14-year period previous to the appearance of his symptoms. Dr. Glogovac stated that, "According to [appellant's] distinct history, his work environment was the significant aggravating factor leading to his carpal tunnel decompressions." However, he did not explain, using objective findings and medical rationale, how appellant's carpal tunnel syndrome was caused or aggravated by his employment. Dr. Glogovac did not describe the specific duties appellant performed or explain how his work environment caused or contributed to the diagnosed condition or need for surgery. Medical reports not containing adequate rationale on causal relationship are of diminished probative value and are insufficient to meet an employee's burden of proof.<sup>9</sup> Dr. Glogovac noted appellant's strong belief of causal relation. On June 8, 2007 Dr. Glogovac stated that in early 2004 appellant experienced numbness in his hands at work and he dropped objects. In early 2005 appellant began to experience pain and numbness in his hands at night, as well as when he was at work. When he was not working, his hands improved. Dr. Glogovac stated that the initial physical examination on June 13, 2005 was indicative of carpal tunnel syndrome with a positive Phalen's test bilaterally and abnormal two-point discrimination, although electromyographic and nerve conduction studies were unrevealing. He indicated that appellant's hand surgeries revealed that the median nerve showed significant flattening consistent with the diagnosis of carpal tunnel syndrome and appellant showed improvement following the hand surgeries. Dr. Glogovac stated that appellant's work increased significantly when the lab staff was reduced from 10 to 3. However, appellant's supervisor stated that the number of tests performed was reduced from 50,000 a year to 20,000 or 30,000 when the staffing level decreased. Dr. Glogovac indicated that appellant moved gas tanks

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<sup>6</sup> Gary J. Watling, 52 ECAB 278 (2001); Gloria J. McPherson, 51 ECAB 441 (2000).

<sup>7</sup> Donald W. Long, 41 ECAB 142 (1989).

<sup>8</sup> *Id.*

<sup>9</sup> Ceferino L. Gonzales, 32 ECAB 1591 (1981).

weighing more than 75 pounds three times a week. However, appellant's supervisor stated that gas tanks were moved only twice a week and he had not performed this task in some time. In light of the description of appellant's workload by his supervisor, the reports of Dr. Glogovac do not appear to be based on a complete and accurate factual background regarding his work duties. He indicated that, based on the history provided by appellant, his work was the significant aggravating factor in the development of his bilateral carpal tunnel syndrome. However, there is insufficient explanation as to how specific job duties caused or aggravated appellant's bilateral carpal tunnel syndrome. Lacking a complete and accurate factual background and sufficient medical rationale, Dr. Glogovac's opinion on causal relationship is of diminished probative value. Therefore, his report is not sufficient to establish that appellant's bilateral carpal tunnel syndrome was causally related to his employment.

**CONCLUSION**

The Board finds that appellant failed to meet his burden of proof in establishing that his bilateral carpal tunnel syndrome is causally related to factors of his employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated August 24, 2007 is affirmed.

Issued: March 19, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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