

hand in the performance of duty.¹ A June 30, 2000 insurance benefits statement was also submitted.

On August 9, 2007 the Office informed appellant that the information currently submitted was insufficient and that additional factual and medical information was needed in order to assess her claim.

Appellant responded in an August 23, 2007 letter and explained that she works in a gatehouse at the postal facility and her job requires her to open the sliding window to receive paperwork from the truck drivers as they enter and exit the facility. Additional information was also submitted. On January 11, 1999 an arthrogram of the right and left wrists was performed which found tears of the triangular fibrocartilage (TFC) in both wrists. In a February 16, 1999 operative report, Dr. E. Olayinka Ogunro, Board-certified in orthopedic and hand surgery, diagnosed a rupture of the TFC ligament in the right wrist and stated that an arthroscopic debridement of the TFC ligament was performed. A May 4, 1999 operative note from Dr. Ogunro diagnosed TFC ligament tear in the left wrist and recorded that an arthroscopic debridement of the TFC ligament was performed. In a November 18, 1999 progress note, Dr. Ogunro diagnosed cubital tunnel on the left and early symptoms on the right. Dr. Ogunro also opined that appellant was most likely using her left arm to open the sliding windows and doors at work. In a May 31, 2000 progress note, Dr. Ogunro diagnosed bilateral carpal tunnel syndrome and noted that appellant complained of pain all over her right forearm.

In a September 13, 2007 decision, the Office denied appellant's traumatic injury claim finding that while the event occurred as alleged the medical evidence failed to provide a diagnosed condition connected to the event.

On September 19, 2007 appellant requested reconsideration and stated that additional medical reports were included.² No additional information was received.

In an October 10, 2007 nonmerit decision, the Office denied appellant's request for reconsideration finding that no new and relevant evidence was submitted nor any legal questions raised which would require a merit review.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 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

¹ The Office received appellant's claim on August 1, 2007.

² Additional medical information was submitted after the October 10, 2007 decision. However, the Board cannot consider new evidence for the first time on appeal. 20 C.F.R. § 501.2(c) (2004).

³ 5 U.S.C. §§ 8101-8193.

for which compensation is claimed are causally related to the employment injury.⁴ 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.⁵

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether “fact of injury” has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is allegedly to have occurred.⁶ The second component is whether the employment incident caused a personal injury.⁷ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁸

ANALYSIS -- ISSUE 1

Appellant alleged that she sustained a right shoulder condition when she was working in a gatehouse on May 15, 2000. The Office accepted that the May 15, 2000 employment incident occurred as alleged. Dr. Ogunro diagnosed her with bilateral carpal tunnel syndrome. The issue is whether the accepted employment incident caused appellant’s right carpal tunnel syndrome. The Board finds that the medical evidence fails to establish the requisite causal relationship between the accepted incident and appellant’s diagnosed condition.

Physicians’ reports on or after May 15, 2000 are the only reports that can establish causal relationship between the incident and the condition. Various reports diagnosed appellant with left and right wrist conditions prior to the May 15, 2000 incident; however, they are not relevant to the issue on hand, whether the accepted employment incident caused an injury. Causal relationship can only be established by rationalized medical evidence.⁹ Appellant’s own belief that there is causal relationship between her claimed condition and her employment is not the basis for an award of compensation.¹⁰

The medical reports submitted from Dr. Ogunro fail to provide a rationalized medical opinion describing the causal relationship between appellant’s diagnosed condition and the

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Elaine Pendleton*, *supra* note 4.

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *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*, *supra* note 5 at 352. 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 the claimant’s specific employment factors. *Id.*

⁹ *Calvin E. King*, 51 ECAB 394 (2000).

¹⁰ *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glann*, 53 ECAB 159 (2001).

May 15, 2000 incident. Dr. Ogunro diagnosed bilateral carpal tunnel syndrome but did not provide an opinion as to the cause of this condition. 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.¹¹ The Board has previously held that a physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. 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 the claimant's specific employment factors.¹²

The medical reports fail to provide the medical opinion on causal relation necessary to demonstrate that appellant's condition is related to the employment incident. As such, appellant has failed to submit sufficient medical evidence to support her claim.

LEGAL PRECEDENT -- ISSUE 2

To require the Office to reopen a case for merit review under section 8128(a) of the Federal Employees' Compensation Act, the Office's regulations provide that the application for reconsideration, including all supporting documents, must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.¹³

Section 8128(b) provides that when an application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for review on the merits.¹⁴ Evidence or argument that repeats or duplicates evidence previously of record has no evidentiary value and does not constitute a basis for reopening a case.¹⁵ Likewise, evidence that does not address a particular issue involved does not constitute a basis for reopening a case.¹⁶

ANALYSIS -- ISSUE 2

In the instant case, appellant has not met any of the criteria for reopening her case for review on the merits. Her case was denied as she did not submit adequate medical evidence establishing a causal relationship between her bilateral carpal tunnel and her employment incident of opening a window. Appellant did not submit any evidence with her reconsideration request. Furthermore, she did not provide any new legal arguments not previously considered by

¹¹ *Michael E. Smith*, 50 ECAB 313 (1999).

¹² *Victor J. Woodhams*, *supra* note 5.

¹³ 20 C.F.R. § 10.606(b)(2)(i-iii).

¹⁴ 20 C.F.R. § 10.606(b)(2).

¹⁵ *Helen E. Paglinawan*, 51 ECAB 407, 591 (2000).

¹⁶ *Kevin M. Fatzner*, 51 ECAB 407 (2000).

the Office, nor did she show that the Office incorrectly applied a specific point of law. As she has not met any of the requirements for reopening her case for merit review under section 8128(a) of the Act, the Office properly denied reconsideration of appellant's case on the merits.

CONCLUSION

The Board finds that appellant failed to establish that she sustained a traumatic injury in the performance of duty and that the Office properly denied reconsideration of appellant's case on the merits.

ORDER

IT IS HEREBY ORDERED THAT the October 10 and September 13, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 15, 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