

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

\_\_\_\_\_ )  
**R.S., Appellant** )

**and** )

**U.S. POSTAL SERVICE, HOPE MILLS** )  
**POST OFFICE, Hope Mills, NC, Employer** )  
\_\_\_\_\_ )

**Docket No. 08-2238**  
**Issued: July 2, 2009**

*Appearances:*  
*Alan J. Shapiro, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

Appellant filed a timely appeal with the Board on August 12, 2008 of the February 6 and May 20, 2008 decisions of the Office of Workers' Compensation Programs denying his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.

**ISSUE**

The issue is whether appellant established that he sustained bilateral carpal tunnel syndrome in the performance of duty.

## **FACTUAL HISTORY**

On November 20, 2007 appellant, then a 36-year-old city carrier, filed an occupational disease claim (Form CA-2) for bilateral carpal tunnel syndrome sustained on or before October 30, 2007 in the performance of duty. He attributed his condition to casing and carrying mail.

In a December 10, 2007 letter, the Office advised appellant of the type of medical and factual evidence needed to establish his claim. It emphasized the importance of submitting a rationalized report from appellant's attending physician explaining how and why work factors would cause the claimed condition. Appellant did not submit additional evidence.

By decision dated February 6, 2008, the Office denied the claim on the grounds that causal relationship was not established as appellant failed to submit any medical evidence.

In an April 1, 2008 letter, appellant requested reconsideration. He submitted medical evidence.

In November 29, 2006 and April 23, 2007 reports, Dr. Rene M. Kotzen, an attending Board-certified neurosurgeon, noted appellant's history of an occupational neck injury in 2004 with subsequent numbness in both hands. He diagnosed possible carpal tunnel syndrome versus the effects of the neck injury.

Dr. Stephen Kouba, an attending Board-certified neurosurgeon, performed a left carpal tunnel release on January 22, 2008 and a right carpal tunnel release on March 11, 2008. In a February 6, 2008 report, he stated that he did "not have an exact answer" whether appellant's "job may have directly caused or aggravated carpal tunnel." Dr. Kouba opined that it was "possible that competitive use can trigger or can develop a carpal tunnel syndrome ... [i]t is bilateral."

By decision dated May 20, 2008, the Office denied modification, finding that the medical evidence was insufficiently rationalized to establish causal relationship.

## **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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.<sup>2</sup> These are the essential

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>3</sup>

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 medial 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.<sup>4</sup>

### ANALYSIS

Appellant claimed that he sustained bilateral carpal tunnel syndrome due to work factors occurring on or before October 30, 2007. He submitted medical reports from Dr. Kotzen, an attending Board-certified neurosurgeon, who diagnosed possible carpal tunnel syndrome versus the sequelae of a 2004 neck injury. The equivocal nature of Dr. Kotzen's opinion reduces its probative value.<sup>5</sup> Dr. Kouba, an attending Board-certified neurosurgeon, stated that it was "possible that competitive use can trigger or develop carpal tunnel syndrome." However, he did not explain how or why appellant's job duties would cause carpal tunnel syndrome. Dr. Kouba's opinion is insufficiently rationalized to establish causal relationship.<sup>6</sup>

The Board notes that appellant was advised by December 10, 2007 letter of the necessity of submitting medical evidence explaining how and why work factors would cause or contribute to the claimed carpal tunnel syndrome. Appellant did not submit such evidence. Therefore, he failed to meet his burden of proof in establishing causal relationship.

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<sup>3</sup> See *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>4</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>5</sup> *T. M.*, 60 ECAB \_\_\_\_ (Docket No. 08-975, issued February 6, 2009).

<sup>6</sup> *Deborah L. Beatty*, 54 ECAB 340 (2003) (medical reports not containing rationale on causal relationship are entitled to little probative value).

**CONCLUSION**

The Board finds that appellant has not established that he sustained bilateral carpal tunnel syndrome in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated May 20 and February 6, 2008 are affirmed.

Issued: July 2, 2009  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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