

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

---

**M.R., Appellant**

**and**

**U.S. POSTAL SERVICE, STATION C,  
San Francisco, CA, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 08-1855  
Issued: March 18, 2009**

*Appearances:*  
*Hank Royal, 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  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On June 24, 2008 appellant filed a timely appeal from an April 3, 2008 decision of the Office of Workers' Compensation Programs that denied her claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she has a diagnosed condition that was caused or aggravated by factors of her federal employment.

**FACTUAL HISTORY**

On March 2, 2006 appellant, then a 58-year-old modified-duty letter carrier who had stopped work on February 22, 2006, filed an occupational disease claim alleging that factors of her federal employment caused carpal tunnel syndrome, tendinitis, numbness, pain and weakness in both legs and left groin pain.<sup>1</sup> She submitted medical reports dated February 23 and

---

<sup>1</sup> Appellant filed a Form CA-2a, recurrence claim. The Office, however, adjudicated the claim as an occupational disease claim.

March 16, 2006 from Dr. Robert A. Fox, a Board-certified neurologist, who advised that appellant had chronic repetitive motion injuries to her neck and upper extremities resulting from her work as a letter carrier and cervical and lumbar strains and degenerative disc disease from prolonged sitting or standing at work. Dr. Fox concluded that all the diagnoses were in part related to carrying mail and walking up and down stairs.

A telephone conference was held on March 21, 2006 between appellant and the Office. Appellant stated that a previous recurrence claim was denied in 1998 and that she then returned to work as an office clerk.<sup>2</sup> Her primary tasks were to label mail that required her to stand for a long period of time. Additional duties included answering the telephone and other clerical duties. Appellant alleged that the condition of her upper extremities, neck, lower back, left groin and both legs was worsening. She stated that the employing establishment stopped providing limited-duty work in January 2006.

By letter dated March 30, 2006, the employing establishment controverted the claim, advising that appellant had not carried mail in years and had been working in a nonindustrial injury light-duty position as a lobby director for many years. The employing establishment described appellant's job duties and advised that the position required no repetitive use of her hands, wrists or arms, no pulling, pushing, simple grasping, fine manipulation, reaching above the shoulder or driving a vehicle and no standing or walking for long periods of time. Lifting was restricted to five pounds and she could sit, stand and walk at a comfort level.

On April 13, 2006 the Office informed appellant of the evidence needed to support her claim. In a May 5, 2006 report, Dr. Fox advised that he first evaluated appellant on November 5, 2004 and that she was not working as a letter carrier. He noted that she had a previous history of bilateral cubital and carpal tunnel syndromes and at the time of his examination was complaining of imbalance and neck pain radiating into both arms and hands in the C6-7 form distribution and lower back pain radiating into both legs in an L5 distribution with peripheral neuropathy. Dr. Fox stated that magnetic resonance imaging (MRI) scan demonstrated degenerative cervical spine disease at C2-3 and recommended conservative management. He next saw her on February 24, 2005 with worsening bilateral carpal tunnel syndrome and recommended that she wear wrist braces. Dr. Fox stated that he last saw appellant on April 28, 2006 when she had persistent carpal tunnel syndrome findings and tenderness over the lateral epicondyles. He advised that "the modified work she has been doing now for a significant amount of time does not need to be changed" and that the newer diagnoses of cervical and lumbar radicular symptoms should be accommodated. Dr. Fox concluded that "these newer symptoms are not related to carrying mail."

In a May 11, 2006 letter, appellant stated that her job duties required consisted of taking registry sacks, checking every letter and package to verify that it corresponded with the log and casing mail, which entailed standing, walking, kneeling, bending, stooping, twisting, pushing, simple grasping, fine manipulation, reaching above the shoulder and answering the telephone.

---

<sup>2</sup> The record also indicates that appellant filed a claim for an injury that occurred on March 4, 1993. The claim was accepted for bilateral plantar fasciitis and overuse syndrome of the left elbow with chronic tendinitis. By decision dated November 16, 1998, appellant's compensation benefits were terminated. On September 28, 1999 an Office hearing representative affirmed the November 16, 1998 decision.

By decision dated June 19, 2006, the Office denied the claim on the grounds that the medical evidence failed to establish a clear diagnosis caused by factors of employment.

On July 15, 2006 appellant requested a hearing and argued that she had never worked as a lobby director. She also submitted medical reports from Dr. Esly M. Barreras, who practices occupational medicine, dating from July 1, 1998 to April 24, 2001 and a March 16, 2006 duty status report in which Dr. Fox advised that appellant could work eight hours a day and provided restrictions to her work activities. A light-duty assignment, accepted by appellant on January 10, 2006 pending medical documentation, described work duties as five hours per day as needed to work in accountable cage and three hours per day as needed for carrier endorsed mail. The physical restrictions were no lifting over five pounds, no reaching over shoulder, no casing and no street delivery.

At the hearing held on November 15, 2006, appellant described her modified duty as mostly sitting and answering the telephone. She stated that beginning in 2000 she was effectively a lobby director until 2002 and then her duties changed to lots of handwriting and placing packages, which required standing and reaching. Appellant stated that she changed work locations in 2004 due to a conflict with her supervisor and coworkers and after that stood most of the day and that this caused numbness and pain in her hands and shoulder, feet and knee pain.

By decision dated February 6, 2007, an Office hearing representative affirmed the June 19, 2006 decision on the grounds that the medical evidence was insufficient to establish that appellant suffered a medical condition causally related to her work activities.

On October 3, 2007 appellant requested reconsideration and submitted a January 24, 2005 MRI scan on the lumbar spine that demonstrated very minor degenerative changes in the lumbar region with relatively minor disc bulging at the L4-5 level. A February 24, 2005 electromyography (EMG) and nerve conduction study was consistent with moderate bilateral carpal tunnel syndrome. In a January 25, 2007 report, Dr. Fox stated, "I would suggest that indeed all the maladies that [appellant] currently experiences in her upper extremities and lower back that began during her work as a letter carrier never resolved; hence, she never recovered from her original injury." In a July 2, 2007 report, he advised that, based on a February 2004 EMG study, appellant had significant bilateral carpal tunnel syndrome. Dr. Fox stated:

"In my opinion, the repetitive motion injuries to the upper extremities led to at least the symptoms in both hands while carrying mail during years of her work and as outlined in her personal statement that I had reviewed. In spite of work modifications in 2006 and later, she continued to have symptoms in her hands while sorting packages and writing up notices. In addition, her degenerative cervical and lumbar disc condition is in part related to prolonged sitting and standing while at work as a letter carrier. The degenerative process would occur with normal aging, but her activities as a letter carrier could have accelerated this degenerative process by 50 percent. This is not unusual for a person who performs carrying mail, reaching and being on her feet. [Appellant's] spinal condition may continue to be symptomatic even in sedentary work as she is currently performing. Repetitive activities with her hands, such as sorting packages and writing up notices, could aggravate the carpal tunnel diagnosis."

By decision dated April 3, 2008, the Office denied modification of the February 6, 2007 decision on the grounds that Dr. Fox's opinion was speculative and insufficient to establish causal relationship.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</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 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 for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim, regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.<sup>4</sup>

Office regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift.<sup>5</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) 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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.<sup>6</sup>

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>7</sup> Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.<sup>8</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the

---

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Roy L. Humphrey*, 57 ECAB 238 (2005).

<sup>5</sup> 20 C.F.R. § 10.5(ee).

<sup>6</sup> *Roy L. Humphrey*, *supra* note 4.

<sup>7</sup> *D.G.*, 59 ECAB \_\_\_\_ (Docket No. 08-1139, issued September 24, 2008).

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

disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>9</sup>

### ANALYSIS

The Board finds that appellant did not meet her burden of proof to establish that she sustained a diagnosed condition causally related to the job she was performing at the time she filed her occupational disease claim in March 2006. The MRI scan and EMG studies submitted by appellant do not address the cause of the diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>10</sup> The contemporaneous medical evidence includes reports from Dr. Fox, an attending neurologist. However, Dr. Fox did not provide a clear opinion regarding the cause of any medical condition. In February 23 and March 16, 2006 reports, he merely advised that appellant had chronic repetitive motion injuries to her neck and upper extremities caused by her work as a letter carrier and cervical and lumbar strains and degenerative disc disease from prolonged sitting or standing at work, concluding that all conditions were caused by carrying mail and walking up and down stairs. In a May 5, 2006 report, Dr. Fox noted a past history of bilateral cubital and carpal tunnel syndrome, appellant's complaints of neck pain radiating into her hands and arms and MRI scan findings of degenerative cervical spine disease. He advised that appellant could continue her modified work and that her newer diagnoses of cervical and lumbar radiculopathy were not related to carrying mail but did not provide an opinion regarding the cause of these conditions. In a July 2, 2007 report, Dr. Fox advised that appellant had significant bilateral carpal tunnel syndrome. While he initially stated that this was caused by her years of carrying mail and continued repetitive activities of sorting packages and writing up notices, he stated later in the report that these repetitive activities could aggravate her carpal tunnel syndrome. Regarding her degenerative spine and lumbar conditions, Dr. Fox stated that her activities as a letter could accelerate the degenerative process and she could continue to be symptomatic even in the sedentary work she was performing. While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.<sup>11</sup> Furthermore, the fact that work activities produced pain or discomfort revelatory of an underlying condition does not raise an inference of causal relationship<sup>12</sup> and a diagnosis of "pain" does not constitute the basis for payment of compensation.<sup>13</sup>

---

<sup>9</sup> *Roy L. Humphrey*, *supra* note 4.

<sup>10</sup> *Willie M. Miller*, 53 ECAB 697 (2002).

<sup>11</sup> *Patricia J. Glenn*, 53 ECAB 159 (2001).

<sup>12</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001).

<sup>13</sup> *Robert Broome*, 55 ECAB 339 (2004).

The Board finds that since Dr. Fox's opinion was speculative and he did not provide a rationalized medical opinion regarding the cause of any diagnosed condition, his opinion is insufficient to establish that appellant sustained an occupational disease caused by the light duty she was performing in 2006.

**CONCLUSION**

The Board finds that appellant did not establish that she sustained a medical condition causally related to factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 3, 2008 be affirmed.

Issued: March 18, 2009  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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