

By letter dated November 19, 2008, the Office advised appellant that the evidence submitted was insufficient to establish his claim. It requested a rationalized medical report from an attending physician which described appellant's symptoms, results of examination and tests, diagnosis, treatment provided, the effect of treatment and opinion with medical reasons on whether the work activities in his federal employment contributed to his condition. Appellant was allowed 30 days to submit such evidence. He did not respond.

By decision dated January 12, 2009, the Office denied appellant's claim. It found the factual evidence was sufficient to establish that he carried mail as a letter carrier, but found that appellant failed to submit any medical evidence establishing carpal tunnel syndrome causally related to his accepted work-related duties.¹

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his 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.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁵ Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty

¹ Following the issuance of the Office's January 12, 2009 decision, it received additional evidence. The Board may not consider evidence for the first time on appeal, which was not before the Office at the time, it issued the final decision in the case. 20 C.F.R. § 501.2(c). Appellant can submit this evidence to the Office, with a formal written request for reconsideration. 5 U.S.C. § 8128; 20 C.F.R. § 10.606.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

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 employee.⁶

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁷

ANALYSIS

The Board finds that appellant has failed to establish a causal relationship between his carpal tunnel syndrome and his accepted work-related duties. The Office's November 19, 2008 developmental letter specifically requested that appellant submit a rationalized medical opinion from his attending physician as to whether his federal employment contributed to the claimed carpal tunnel syndrome. Appellant did not submit such evidence. The Board finds, therefore, that he failed to meet his burden of proof.

On appeal, appellant contended that his delay in submitting the requested medical evidence was due to medical insurance procedures and that an attending physician had to examine him a second time to be referred for diagnostic testing to confirm his carpal tunnel syndrome. He can submit any new evidence to the Office and request reconsideration.⁸

CONCLUSION

The Board finds that appellant has failed to establish that he sustained carpal tunnel syndrome in the performance of duty.

⁶ *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *D.I.*, 59 ECAB ___ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

⁸ 5 U.S.C. § 8128; 20 C.F.R. § 10.606.

ORDER

IT IS HEREBY ORDERED THAT the January 12, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 13, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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