

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

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**G.C., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Dayton, OH, Employer**

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**Docket No. 09-549  
Issued: September 10, 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  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On December 19, 2008 appellant, through her representative, filed a timely appeal from a May 12, 2008 merit decision of the Office of Workers' Compensation Programs and a November 18, 2008 merit decision of an Office hearing representative denying her claim for fact of injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant established that she sustained an injury in the performance of duty causally related to her federal employment duties.

**FACTUAL HISTORY**

On March 25, 2008 appellant, then a 53-year-old mailing requirements clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained carpal tunnel syndrome due to repetitive movements at work, including typing, lifting and sorting. She noted that she was first aware of the disease and its relationship to her employment on February 18, 2008.

In a medical report dated January 17, 2008, Dr. Pani Akuthota reported appellant's history of intermittent tingling and numbness of the left hand for several years, with a recent onset of pain along the left wrist and hand. He opined that the findings of a physical examination, electromyogram (EMG) and nerve conduction study suggested moderately severe left median nerve entrapment neuropathy across the wrist or moderately severe left carpal tunnel syndrome. Dr. Akuthota stated that there was evidence of axonal loss along the left abductor pollicis brevis with evidence of denervation and reinnervation.

In a January 11, 2008 medical report, Dr. Matthew Studebaker, Board-certified in family medicine, stated that appellant sustained right carpal tunnel syndrome in 1990. He reported that appellant's left hand was numb, that she had difficulties gripping and that her symptoms had worsened in the past few months. Dr. Studebaker diagnosed carpal tunnel syndrome.

By letter dated April 1, 2008, the Office advised appellant of the deficiencies in her claim and requested additional information.

In a February 18, 2008 medical report, Dr. John S. Urse, an osteopath, stated that appellant underwent right carpal tunnel release in 1990 and that she was returning for a left carpal tunnel release. Appellant provided a January 17, 2008 EMG with evidence of severe median nerve entrapment. She relayed that her repetitive job duties caused burning and numbness in the hand. Appellant's symptoms included numbness and tingling in the index, long and thumb digits and to a lesser degree the small finger of the left hand. Physical examination revealed positive Tinel's test over the median nerve causing a numb or tingling sensation in the index and fingers. Carpal tunnel compression and Phalen's test were positive. Dr. Urse diagnosed left hand pain, moderate to severe carpal tunnel syndrome per EMG, possible tardy ulnar nerve in the left elbow and possible basal joint arthropathy of the left thumb. He noted that appellant may want to file a claim through workers' compensation. Further, an x-ray report showed mild, early degenerative changes at the trapeziometacarpal articulation.

By decision dated May 12, 2008, the Office denied appellant's claim on the grounds that she did not establish that she sustained an injury causally related to her employment duties.

On June 2, 2008 appellant, through her representative, filed a request for a telephonic hearing before an Office hearing representative. A telephonic hearing took place on September 11, 2008.

In an October 22, 2008 medical report, Dr. Urse stated that he saw appellant in February 2008, at which time he diagnosed left carpal tunnel syndrome and recommended a left carpal tunnel release. After reviewing her repetitive job duties, including keying, sorting, sweeping machines, lifting and throwing, he opined that the carpal tunnel was a direct result of performing these duties for many years.

By decision dated November 18, 2008, an Office hearing representative affirmed the May 12, 2008 decision on the grounds that appellant did not meet her burden of proof in establishing that she sustained left carpal tunnel syndrome due to her federal employment duties.

## LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence,<sup>2</sup> including that she is an "employee" within the meaning of the Act<sup>3</sup> and that she filed her claim within the applicable time limitation.<sup>4</sup> The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (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.<sup>6</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion 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, 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.<sup>7</sup>

## ANALYSIS

The issue is whether appellant established that she sustained an injury to her left upper extremity as a result of her repetitive employment duties. The Board finds that she did not provide sufficient medical evidence to meet her burden of proof.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *J.P.*, 59 ECAB \_\_\_\_ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

<sup>3</sup> *See M.H.*, 59 ECAB \_\_\_\_ (Docket No. 08-120, issued April 17, 2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951); *see* 5 U.S.C. § 8101(1).

<sup>4</sup> *R.C.*, 59 ECAB \_\_\_\_ (Docket No. 07-1731, issued April 7, 2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954); *see* 5 U.S.C. § 8122.

<sup>5</sup> *G.T.*, 59 ECAB \_\_\_\_ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>7</sup> *I.J.*, 59 ECAB \_\_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

In a January 17, 2008 medical report, Dr. Akuthota reported appellant's history of intermittent tingling and numbness in her left hand and recent onset of pain along the left wrist and hand. Physical examination and diagnostic testing revealed findings of severe left carpal tunnel syndrome. Dr. Akuthota also found evidence of axonal loss along the left abductor pollicis brevis. However, he did not discuss the cause of appellant's conditions nor did he indicate any relationship between these conditions and appellant's employment duties. Thus, this report is of diminished probative value and insufficient to meet appellant's burden of proof.<sup>8</sup>

Appellant also submitted medical reports dated February 18 and October 22, 2008 from Dr. Urse. In the February 18, 2008 report, Dr. Urse relayed appellant's comments that her repetitive job duties caused burning and numbness in the hand. He diagnosed moderate-to-severe carpal tunnel syndrome and possible tardy ulnar nerve in the left elbow and possible basil joint arthropathy of the left thumb. Dr. Urse noted that appellant may want to file a workers' compensation claim. This report is also insufficient to meet appellant's burden of proof. Although, Dr. Urse mentioned that appellant may want to file a workers' compensation claim, he did not provide a rationalized medical opinion describing the relationship between appellant's condition and her employment. Further, his reporting of appellant's belief that her repetitive job duties caused her left hand symptoms does not constitute a rationalized medical opinion and is insufficient to establish causation.<sup>9</sup>

Further, in the October 22, 2008 medical report, Dr. Urse stated that he saw appellant in February 2008 and diagnosed left carpal tunnel syndrome. He opined that the carpal tunnel syndrome was a direct result of appellant's performance of repetitive job duties over many years, including keying, sorting, sweeping, machines, lifting and throwing. However, Dr. Urse did not expand on his conclusion of causal relationship or provide a rationalized medical opinion explaining how the repetitive movements associated with appellant's job duties caused or contributed to the carpal tunnel. Specifically, he did not explain the mechanisms associated with these tasks or how their repeated performance over a series of years led to carpal tunnel syndrome. Therefore, this report is also of diminished probative value.<sup>10</sup>

Finally, in a January 11, 2008 medical report, Dr. Studebaker diagnosed carpal tunnel syndrome and described appellant's symptoms. The report did not include an opinion on causation thereby rendering it of diminished probative value.<sup>11</sup>

The Board finds that none of the medical evidence provided a sufficiently rationalized medical opinion describing the relationship between appellant's left carpal tunnel syndrome and her repetitive employment duties. Therefore, appellant did not meet her burden of proof in establishing causation.

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<sup>8</sup> See *Donald T. Pippin*, 54 ECAB 631 (2003).

<sup>9</sup> Appellant's belief that the employment caused or aggravated her condition is insufficient to establish causal relationship. See *Joseph T. Gulla*, 36 ECAB 516 (1985).

<sup>10</sup> See *Robert Broome*, 55 ECAB 339 (2004).

<sup>11</sup> See *Donald T. Pippin*, *supra* note 8.

**CONCLUSION**

The Board finds that appellant did not establish that she sustained an injury in the performance of duty causally related to her federal employment duties.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 18 and May 12, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 10, 2009  
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