

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

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N.S., Appellant )

and )

**DEPARTMENT OF AGRICULTURE,** )  
**FORRESTRY SERVICE, West Yellowstone, MT,** )  
**Employer** )

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**Docket No. 09-2106**  
**Issued: April 22, 2010**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On August 24, 2009 appellant filed a timely appeal from April 8 and June 2, 2009 merit decisions of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2 and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met his burden of proof to establish that he developed a left wrist and hand condition due to factors of his federal employment.

**FACTUAL HISTORY**

On May 5, 2008 appellant, then a 25-year-old forestry technician smokejumper, filed an occupational disease claim alleging on April 24, 2008 he developed pain in his left wrist and forearm after using a chainsaw for four consecutive days at work. In a letter dated May 23, 2008, the Office requested additional factual and medical evidence from appellant and allowed 30 days for a response.

Appellant submitted a note dated May 28, 2008 from Dr. Muskula P. Kumar, a Board-certified internist, which noted appellant's history of using a saw at work and developing pain in his left wrist. Dr. Kumar stated that appellant's left wrist x-ray was negative. He found normal range of motion, no effusion, no erythema and a ganglion cyst over the dorsal wrist.

Appellant provided a factual history of his alleged employment injury on June 23, 2008 and stated that his assignment from April 21 through 24, 2008 was to use a chainsaw to reopen a campground closed due to wind damage. He stated that he used both hands to control the 20-pound saw for six to eight hours a day from April 21 through 24, 2008. Appellant stated that he noticed increasing left wrist pain throughout this assignment.

By decision dated August 4, 2008, the Office denied appellant's claim on the grounds that he failed to submit necessary medical evidence.

Appellant requested an oral hearing on September 3, 2008.

In a report dated November 25, 2008, Dr. Blake Johnson, a Board-certified orthopedic surgeon, noted appellant's history of hurting his left wrist using a chainsaw at work. He noted that appellant was left hand dominant and that appellant reported swelling over his left wrist. Dr. Johnson found full range of motion of the left wrist, lunate tenderness with no appreciable swelling and no definite ganglion cyst. He examined x-rays of appellant's left wrist and found an ulnar negative variant. Dr. Johnson diagnosed left wrist pain with possible Keinbock disease or occult ganglion cyst. He requested a magnetic resonance imaging (MRI) scan of appellant's left wrist.

Appellant testified at his oral hearing on February 11, 2009 that he had not lost any time from work. He requested compensation for his medical expenses. The hearing representative allowed appellant 30 days to submit additional medical evidence.

By decision dated April 8, 2009, the hearing representative accepted as factual appellant's description of his employment duties, but found that appellant did not submit medical evidence, which included a description of his employment duties, a definitive diagnosis, an opinion on the causal connection between his duties and condition or medical reasoning supporting this opinion. The hearing representative affirmed the Office's August 4, 2008 decision.

Appellant requested reconsideration on May 12, 2009 and submitted a medical report. Dr. Johnson completed a report on May 11, 2009, noted appellant's job title and stated that on October 10, 2008 appellant performed "repetitive flexion extension and extensive wrist usage throughout the day." He noted that appellant had pain with certain motions of his wrist and recommended an MRI scan to determine if appellant had developed a ganglion cyst or early stages of Keinbock disease exacerbated by extensive wrist usage. Dr. Johnson stated, "Based on the fact that he has never had pain prior to this time and he definitely relates it to the use of the chainsaw, I certainly feel that this is consistent with an on-the-job injury." By decision dated

June 2, 2009, the Office denied modification of its prior decision finding that the medical evidence was speculative.<sup>1</sup>

### **LEGAL PRECEDENT**

An occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.<sup>2</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 a disease or condition for which compensation is claimed; (2) a factual statement identifying the 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>3</sup>

### **ANALYSIS**

Appellant submitted factual statements attributing his left wrist condition to the use of a chainsaw in his federal employment. However, the medical evidence submitted by appellant does not provide a clear diagnosis of a left wrist condition. The May 28, 2008 report of Dr. Kumar, a Board-certified internist, described his history of using a saw at work and diagnosed a ganglion cyst over the dorsal wrist. Dr. Kumar, however, did not provide any opinion as to whether this condition was related to appellant's accepted employment activities. The report is therefore not sufficient to establish appellant's claim as the issue of causal relation was not addressed.

Appellant also submitted reports from Dr. Johnson, a Board-certified orthopedic surgeon, dated November 25, 2008 and May 11, 2009. Dr. Johnson listed appellant's history of hurting his left wrist using a chainsaw at work. On physical examination, he was not able to confirm the diagnosis of a ganglion cyst. Dr. Johnson diagnosed left wrist pain with possible Keinbock disease or occult ganglion cyst. He requested an MRI scan of appellant's left wrist. Dr. Johnson stated, "Based on the fact that he has never had pain prior to this time and he definitely relates it to the use of the chainsaw, I certainly feel that this is consistent with an on-the-job injury." He provided a factual history and a general opinion that appellant's condition was due to his employment. Dr. Johnson suggested that appellant's condition could be either a ganglion cyst or Keinbock disease.<sup>4</sup> He did not provide a firm diagnosis of appellant's left wrist condition or a

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<sup>1</sup> The Board notes that, while the Office stated that it had denied appellant's request for reconsideration, based on the analysis in the Office's June 2, 2009 decision, it has in fact performed a review of the merits of appellant's claim.

<sup>2</sup> 20 C.F.R. § 10.5(q).

<sup>3</sup> *Solomon Polen*, 51 ECAB 341, 343-44 (2000).

<sup>4</sup> The Board has held that medical opinions that are speculative or equivocal are of diminished probative value. *See Kathy A. Kelley*, 55 ECAB 206 (2004).

rationalized opinion explaining how appellant's work duties would cause or contribute to his left wrist symptoms. His report is not sufficient to meet appellant's burden of proof and the Office properly denied his claim.

**CONCLUSION**

The Board finds that appellant has not submitted sufficient medical evidence to establish that his left wrist condition was caused or contributed to by his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated June 2 and April 8, 2009 are affirmed.

Issued: April 22, 2010  
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