

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

K.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Brewer, ME, Employer**

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**Docket No. 09-1793
Issued: March 4, 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 June 30, 2009 appellant filed a timely appeal from a January 6, 2009 merit decision of the Office of Workers' Compensation Programs denying her claim for compensation and an April 16, 2009 decision denying further merit review of the claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant established a right trigger finger condition as causally related to employment factors; and (2) whether the Office properly determined appellant's application for reconsideration was insufficient to warrant merit review.

FACTUAL HISTORY

On September 30, 2008 appellant, then a 51-year-old retail clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained a right middle finger condition causally related to her federal employment. In a narrative statement, she noted a prior claim accepted for bilateral carpal tunnel syndrome, with right wrist surgery on July 14, 2005 and left wrist surgery

on June 26, 2008. Appellant stated that she had a painful right middle finger that would not properly close when she made a fist without a hitch or snap. She described her job as requiring repetitive motion involving the sorting of letters, counting money and working at the retail window.

In a report dated September 23, 2008, Dr. John Pyne, an orthopedic surgeon, diagnosed right long trigger finger. He stated, "Given the work that you do and the lack of any underlying medical problems, such as diabetes, I think it is more probable than not that your work has caused or at least significantly aggravated the development of your right long trigger finger. I, therefore, feel that the diagnosis of trigger finger is work related."

By letter dated October 17, 2008, the Office requested that appellant submit additional medical evidence on causal relationship with employment. In a form report (CA-20) dated November 18, 2008, Dr. Pyne diagnosed right long trigger finger and checked a box "yes" that the condition was employment related.

By decision dated January 6, 2009, the Office denied appellant's claim for compensation. It found the medical evidence was insufficient to establish that her finger condition was caused by her work duties.

Appellant requested reconsideration of her claim on January 26, 2009. She again noted that she had an accepted claim for carpal tunnel syndrome and that she believed her right trigger finger was directly related to her carpal tunnel syndrome, as did her physician. Appellant discussed her job duties and stated her doctor had made his views clear.

By decision dated April 16, 2009, the Office denied her reconsideration request without further merit review of the claim.

LEGAL PRECEDENT -- ISSUE 1

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.²

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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.³

¹ 5 U.S.C. §§ 8101-8193.

² 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

³ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁵ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁶

ANALYSIS -- ISSUE 1

Appellant alleged that she sustained a right trigger finger causally related to her federal employment as a retail clerk. She described her job duties, which included sorting mail, counting money and other repetitive motion related to working the retail window. The issue is whether appellant submitted rationalized medical evidence on the causal relationship between her diagnosed condition and the identified employment factors.

Dr. Pyne diagnosed a right middle trigger finger. He does not, however, provide a rationalized medical opinion on causal relationship. In a September 23, 2008 report, Dr. Pyne did not provide a complete medical or factual history. He stated, "Given the work that you do," without discussing the specific work duties identified by appellant. There is no clear medical rationale explaining the relationship between the diagnosed condition and identified employment factors. Dr. Pyne's opinion is speculative and equivocal.⁷ As to the CA-20 form report, it is well established that the checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.⁸

On appeal, appellant contends that she has laid the foundation for acceptance of the claim. As noted, the Board finds that appellant did not submit a rationalized medical opinion, based on a complete factual and medical history, on the causal relationship of her right trigger finger and the identified employment factors.

LEGAL PRECEDENT -- ISSUE 2

The Act provides that the Office may review an award for or against compensation upon application by an employee (or his or her representative) who receives an adverse decision.⁹ The

⁴ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁵ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *Id.*

⁷ See *D.D.*, 57 ECAB 734 (2006); *Cecelia M. Corley*, 56 ECAB 662 (2005).

⁸ See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

⁹ 5 U.S.C. § 8128(a).

employee shall exercise this right through a request to the district Office. The request, along with the supporting statements and evidence, is called the “application for reconsideration.”¹⁰

An employee (or representative) seeking reconsideration should send the application for reconsideration to the address as instructed by the Office in the final decision. The application for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent evidence not previously considered by the Office.¹¹

A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence and/or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.¹²

ANALYSIS -- ISSUE 2

On reconsideration, appellant stated that she believed her trigger finger condition was causally related to her accepted carpal tunnel syndrome. To the extent appellant is claiming that her condition was a natural progression of the carpal tunnel syndrome, she may pursue such a claim under the prior carpal tunnel file. Her claim in this case, however, is that repetitive activity in her federal employment caused or aggravated the right trigger finger. This is a new claim for injury and requires the submission of rationalized medical evidence on causal relationship to establish the claim.

Appellant did not submit any new and relevant evidence on the medical issue presented. While she may believe the medical evidence was sufficient, the evidence of record did not establish the claim. Appellant’s application for reconsideration did not show that the Office erroneously applied or interpreted a specific point of law, or advance a relevant legal argument not previously considered by the Office. Moreover, it was not accompanied by relevant and pertinent evidence not previously considered by the Office. The Board accordingly finds that appellant did not meet the requirements of 20 C.F.R. § 10.606(b)(2) and therefore the Office properly declined to review the case on its merits.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish a right trigger finger condition causally related to employment factors. The Board further finds that the Office

¹⁰ 20 C.F.R. § 10.605 (1999).

¹¹ *Id.* at § 10.606(b)(2).

¹² *Id.* at § 10.608.

properly determined appellant's application for reconsideration was not sufficient to warrant merit review of the claim.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated April 16 and January 6, 2009 are affirmed.

Issued: March 4, 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