

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

T.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Burns, TN, Employer**

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**Docket No. 09-1821
Issued: March 11, 2010**

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
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On July 10, 2009 appellant filed a timely appeal from a June 5, 2009 merit decision of the Office of Workers' Compensation Programs affirming an October 22, 2008 merit decision denying 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 satisfied her burden of proof to establish that she sustained an injury in the performance of duty causally related to her employment.

FACTUAL HISTORY

On September 8, 2008 appellant, a 53-year-old rural carrier, filed an occupational disease claim (Form CA-2) for carpal tunnel syndrome. She alleged that her carpal tunnel syndrome was caused by repetitive hand motions she performed in the course of her duties at the employing establishment, as well as by driving her rural route vehicle with her left hand.

Appellant submitted a September 3, 2008 report and subsequent reports, wherein Dr. Jeffrey T. Watson, a Board-certified orthopedic surgeon, diagnosed “left carpal tunnel syndrome. She submitted results from diagnostic tests. Appellant underwent carpal tunnel release surgery on September 8, 2008. In a subsequent note, dated September 20, 2008, Dr. Watson reported that she could return to work on October 21, 2008 with restrictions.

Appellant submitted an undated note in which she described her employment duties, medical condition and hobbies. She asserted that her condition was caused by the repetitive hand motions performed in the course of her employment.

By decision dated October 22, 2008, the Office denied the claim. While it accepted that appellant established employment factors allegedly responsible for her condition, it denied the claim because she had not established that the accepted employment factors caused a medically diagnosed condition.

On November 21, 2008 appellant, through her attorney, requested a hearing. At a hearing, conducted March 16, 2009, she described her employment duties, history of injury and course of treatment.

On April 27, 2009 Dr. W. Bryan Burnette, a Board-certified neurologist, reported that a needle electromyogram (EMG) examination revealed severe left median neuropathy in appellant’s wrist.

By decision dated June 5, 2009, the Office affirmed its October 22, 2008 decision because the evidence of record did not establish that the employment factors caused her carpal tunnel syndrome.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of proof to establish the essential elements of her claim by the weight of the evidence,² including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.³ As part of her burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.⁴ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality,

¹ 5 U.S.C. §§ 8101-8193.

² *J.P.*, 59 ECAB ___ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *G.T.*, 59 ECAB ___ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *G.T.*, *supra* note 3; *Nancy G. O’Meara*, 12 ECAB 67, 71 (1960).

the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.⁵

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.⁶

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.⁷

ANALYSIS

The Office accepted that repetitive hand motions and rural route vehicle driving were factors of appellant's federal employment. Appellant also submitted substantial medical documentation that she has sustained left carpal tunnel syndrome. Her burden of proof however also requires that she submit rationalized medical evidence to demonstrate that the accepted employment factors caused the medically diagnosed condition. The Board finds that appellant has not satisfied her burden of proof and consequently has not established that she sustained an injury in the performance of duty causally related to her employment.

Dr. Watson diagnosed "left carpal tunnel syndrome." His reports are only of probative value in establishing this diagnosis. Dr. Watson did not provide a factual history of appellant's employment duties. He did not describe the repetitive hand motions required by her job nor did he describe the rural route driving she performed with her left hand. 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.⁸ As Dr. Watson had no history of appellant's employment duties he could not offer and, in fact did not offer, any opinion regarding the cause of appellant's diagnosed conditions. Accordingly, his reports are insufficient to satisfy her burden.

⁵ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

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

⁷ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *Id.*

Dr. Burnette reported that a needle EMG examination revealed severe left median neuropathy in appellant's wrist. His report, however, is also of limited probative value on the issue of causal relationship because it lacks rationalized opinion explaining how this condition was caused by the established employment factors.⁹ Thus, Dr. Burnette's report is insufficient to satisfy appellant's burden.

The Board has held that the fact that a condition manifests itself or worsens during a period of employment¹⁰ or that work activities produce symptoms revelatory of an underlying condition¹¹ does not raise an inference of causal relationship between a claimed condition and employment factors.

The Board finds that appellant has not satisfied her burden of proof and consequently has not established that she sustained an injury in the performance of duty causally related to her employment.

CONCLUSION

The Board finds that appellant has not satisfied her burden of proof and consequently has not established that she sustained an injury in the performance of duty causally related to her employment.

⁹ See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value). See also, *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

¹⁰ *E.A.*, 58 ECAB 677 (2007); *Albert C. Haygard*, 11 ECAB 393, 395 (1960).

¹¹ *D.E.*, 58 ECAB 448 (2007); *Fabian Nelson*, 12 ECAB 155, 157 (1960).

ORDER

IT IS HEREBY ORDERED THAT the June 5, 2009 and October 22, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 11, 2010
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board