

On March 3, 2009 the Office requested additional evidence, including a detailed description of the employment activities which contributed to appellant's bilateral wrist condition. It also requested a comprehensive medical report containing a diagnosis, description of her symptoms, the results of examinations and tests and medical rationale explaining how her diagnosed condition was causally related to specific factors of her employment.

Appellant submitted a nerve conduction study and needle electrode examination dated December 5, 2008, performed by Dr. Laura A. Sams, a Board-certified neurologist, who reported that there was electromyogram (EMG) evidence of CTS at the wrist on both hands, the condition being worse on the right. The Office also received a March 15, 2009 factual statement from appellant describing her work duties and the employment factors she believed caused her condition.

By decision dated April 22, 2009, the Office found that appellant failed to establish her claim for compensation. It denied her claim on the grounds that the factual and medical evidence were insufficient to establish that her bilateral CTS was causally related to factors of her employment as a custodial laborer.

On April 27, 2009 appellant, through her attorney, requested an oral hearing before an Office hearing representative that took place on August 13, 2009. She contended that her duties as a laborer, specifically the repetitive motion of sweeping floors, caused her condition. Appellant stated that her wrists hurt on and off over the prior couple of years and had not ceased. Counsel informed the hearing representative that they were awaiting medical records which would be forwarded upon their receipt. No additional medical evidence was submitted following the hearing.

By decision dated December 9, 2009, the Office hearing representative affirmed the April 22, 2009 decision. She found that appellant failed to submit sufficient medical evidence to establish that her bilateral wrist condition was causally related to factors of her employment as a laborer custodian.

LEGAL PRECEDENT

An employee who claims benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the occurrence of an injury at the time, place, and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.² An injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action.³ An employee has not met his or her burden of proof to establish the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the

¹ 5 U.S.C. §§ 8101-8193.

² *D.B.*, 58 ECAB 464 (2007); *George W. Glavis*, 5 ECAB 363, 365 (1953).

³ *M.H.*, 59 ECAB 461 (2008); *George W. Glavis*, *id.*

claim.⁴ Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on an employee's statements in determining whether a *prima facie* case has been established.⁵ However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁶

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 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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁷

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence.⁸ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁹

ANALYSIS

It is not disputed that appellant's duties as a custodian laborer included performing repetitive activities using her arms and hands and that she sustained a bilateral hand condition. The Board finds, however, that she did not submit sufficient medical evidence to support that her bilateral hand condition is causally related to her work as a laborer custodial.

⁴ *S.P.*, 59 ECAB 184 (2007); *Gus Mavroudis*, 9 ECAB 31, 33 (1956).

⁵ *M.H.*, *supra* note 3; *John D. Shreve*, 6 ECAB 718, 719 (1954).

⁶ *S.P.*, *supra* note 4; *Wanda F. Davenport*, 32 ECAB 552, 556 (1981).

⁷ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *D.U.*, 61 ECAB ____ (Docket No. 10-144, issued July 27, 2010).

⁹ *James Mack*, 43 ECAB 321 (1991).

On March 3, 2009 the Office advised appellant of the medical evidence needed to establish her claim, including a comprehensive medical report containing a diagnosis and an explanation as to how her diagnosed condition was caused by the identified employment activities. While appellant did submit a December 5, 2008 nerve conduction study from Dr. Sams, it does not address the issue of a causal relation between her bilateral carpal tunnel syndrome and her duties as a laborer custodian through the repetitive motion of sweeping floors.

The December 5, 2008 report of Dr. Sams stated that appellant's nerve conduction study showed EMG evidence of bilateral moderate, chronic median neuropathy at the wrist, worse on right. As noted, these diagnostic studies do not identify any specific work factors or the specific nature of the repetitive work duties as performed by appellant. Dr. Sams did not address whether appellant's condition was work related or provide an opinion addressing the causal relationship between appellant's diagnosed condition and the factors of employment implicated in the claim.¹⁰ Medical reports not containing adequate rationale on causal relationship are of diminished probative value and are insufficient to meet an employee's burden of proof.¹¹ Therefore, this report is insufficient to establish appellant's claim.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment, nor her belief that her condition was aggravated by her employment, is sufficient to establish causal relationship.¹² Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office properly denied her claim for compensation.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that her bilateral carpal tunnel syndrome is causally related to her employment as a laborer custodial.

¹⁰ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

¹¹ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

¹² *D.I.*, 59 ECAB 158 (2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

ORDER

IT IS HEREBY ORDERED THAT the December 9, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 2, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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