

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

R.H., Appellant

and

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

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**Docket No. 10-97
Issued: September 9, 2010**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 13, 2009 appellant filed a timely appeal from a May 5, 2009 merit decision of the Office of Workers' Compensation Programs that denied 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 established that she sustained an injury in the performance of duty causally related to her employment.

FACTUAL HISTORY

On February 3, 2009 appellant, a 60-year-old mail processing clerk, filed an occupational disease claim (Form CA-2) for bilateral carpal tunnel syndrome as well as leg and knee conditions which she attributed to "repetitive use" of her hands, wrists and fingers to process mail. In addition to "manipulation[,] verification and lifting of mails," appellant also attributed her condition to "repetitive use of legs/knees" to perform employment duties involving "constant" bending, stooping and standing and "expos[ure] to a cold work area." Appellant first

became aware of her conditions and that it was caused by her federal employment on February 1, 2008.

Appellant submitted results from diagnostic tests as well as a report and notes bearing illegible signatures.

Appellant submitted reports, dated September 18 and October 9, 2008, in which Dr. Miles M. Johnson, a Board-certified physiatrist, presented findings following an electromyography. Dr. Johnson diagnosed right and left wrist carpal tunnel syndrome.

On November 10, 2008 Dr. George S. Flinn, a Board-certified radiologist, reported findings following a peripheral vascular examination of appellant's lower extremities. He diagnosed mild occlusive arterial disease changes in appellant's left lower extremity and also noted that a study of appellant's right lower extremity was normal.

Appellant submitted a January 14, 2009 report, in which Dr. George W. Wood, II, a Board-certified orthopedic surgeon, presented findings on examination and diagnosed cervical, thoracic and lumbar arthritis, conditions which he states were "exacerbated" by "work stress and repetitive work activity."

In a March 13, 2009 note, appellant described her history of injury and the employment activities that she deemed responsible for her condition.

In an April 16, 2009 note, Dr. Marsha V. Lee, a family physician, noted:

"[Appellant] has recently been diagnosed with carpal tunnel syndrome in both wrists. This condition is typically caused by repetitive motions and given her job description, is most likely work related."

By decision dated May 5, 2009, the Office denied the claim because appellant failed to establish the employment factors she deemed responsible for her condition and, further, the medical evidence did not demonstrate that compensable employment factors caused a medically-diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,² including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.³ As part of his burden, the employee must submit rationalized medical opinion evidence

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).

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, 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

Appellant was employed as a mail clerk. She has identified "repetitive use" of her hands, wrists and fingers to process mail as employment factors she deemed responsible for her condition. Appellant also identified "manipulation[,] verification and lifting of mails" as well as "repetitive use of legs/knees" to perform employment duties involving "constant" bending, stooping and standing and "expos[ure] to a cold work area."

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.⁸ The employing establishment controverted the claim by noting that appellant had been on modified duty for a period of time. As there is no evidence contradicting appellant's allegations that she did perform repetitive tasks in her mail clerk position, the Board finds appellant established employment factors relevant to her claim.

Appellant's burden is to demonstrate that the established employment factors caused a medically-diagnosed condition. Causal relationship is a medical issue that can only be proven by

⁴ *Id.*, Nancy G. O'Meara, 12 ECAB 67, 71 (1960).

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.*

probative, rationalized medical opinion evidence. The medical evidence of record lacks the requisite reasoning to establish causal relationship and, consequently, the Board finds appellant has not established she sustained an injury in the performance of duty causally related to her employment.

Medical reports dated July to October 2008 bearing illegible signatures are not competent medical evidence and thus have no evidentiary value because they cannot be identified as having been prepared by a “physician” as defined by the Act.⁹ Thus, this evidence does not establish a causal relationship between the established employment factors and appellant’s alleged condition.

The reports and notes signed by Drs. Flinn, Johnson, Lee and Wood have little probative value on the issue of causal relationship because they lack an opinion explaining how the established employment factors caused the conditions they diagnosed.¹⁰ Therefore, while Dr. Lee stated that carpal tunnel syndrome is “typically caused by repetitive motions” consistent with appellant’s job description and thus her condition was “most likely work related,” Dr. Lee did not identify the specific nature of the repetitive motions appellant performed, nor how often and for how long she would have performed these motions. Furthermore, he did not explain how the repetitive motions would have physiologically caused appellant’s carpal tunnel syndrome. Dr. Lee’s opinion does not demonstrate a causal relationship exists between the established employment factors and appellant’s condition. Dr. Lee also did not discuss the relevant employment factors or explain how they caused appellant’s condition. Finally, Dr. Lee’s use of the words “typically” and “likely” indicates that her opinion is speculative.¹¹

Although, Dr. Wood states that appellant’s arthritis was “exacerbated” by “work stress and repetitive work activity, because Dr. Wood did not clarify his opinion as to what specific work stress or repetitive activities exacerbated appellant’s condition, his opinion is too generalized to establish the required causal relationship. Thus, this evidence does not establish a causal relationship between the identified employment factors and appellant’s condition.

An award of compensation may not be based on surmise, conjecture or speculation.¹² Neither, the fact that appellant’s claimed 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.¹³ The fact that a condition manifests itself or worsens during a period of employment¹⁴ or that work activities produce symptoms revelatory of an underlying

⁹ *Vickey C. Randall*, 51 ECAB 357 (2000); *Merton J. Sills*, 39 ECAB 572 (1988) (reports not signed by a physician lack probative value).

¹⁰ *See Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

¹¹ *Ricky S. Storms*, 52 ECAB 349 (2001); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹² *Edgar G. Maiscott*, 4 ECAB 558 (1952) (holding appellant’s subjective symptoms and self-serving declarations do not, in the opinion of the Board, constitute evidence of a sufficiently substantial nature).

¹³ *D.I.*, 59 ECAB ___ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

¹⁴ *E.A.*, 58 ECAB 677 (2007); *Albert C. Haygard*, 11 ECAB 393, 395 (1960).

condition¹⁵ does not raise an inference of causal relationship between a claimed condition and identified employment factors.

On appeal appellant described in detail her job duties and explained the relationship between her current conditions with these work activities. She noted that she always worked to meet the dispatch time. This statement, while relevant to the facts of her claim is not medical evidence. Without medical evidence establishing the causal connection between her job duties and her conditions appellant's burden of proof has not been met.

Because the medical evidence contains no reasoned discussion of causal relationship, one that soundly explains how appellant's employment factors caused or aggravated a firmly diagnosed medical condition, the Board finds appellant has not established the essential element of causal relationship.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the May 5, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 9, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹⁵ *D.E.*, 58 ECAB 448 (2007); *Fabian Nelson*, 12 ECAB 155,157 (1960).