



## **FACTUAL HISTORY**

On April 28, 2009 appellant, then a 37-year-old mail processing clerk, filed an occupational disease claim alleging that, due to his employment duties of prolonged standing, walking, bending, reaching and lifting up to 70 pounds, he developed bulging discs, torn meniscus of both knees, radial tunnel syndrome in the left elbow, spurs on both heels, plantar fasciitis and scapholunate ligament tear of the wrist. He stated that he first became aware of his conditions on April 7, 2008 and first attributed the conditions to his employment on that date.

In a letter dated May 13, 2009, OWCP requested additional factual and medical evidence from appellant in support of his claims. It allowed 30 days for a response.

In a note dated October 20, 1999, Dr. Stephen E. Blythe diagnosed left radial tunnel syndrome. Appellant submitted a narrative statement attributing his wrist conditions to lifting heavy tubs of mail, pushing heavy equipment, scanning, lifting and carrying heavy parcels up to 70 pounds, pulling and pushing equipment. He attributed his knee conditions to squatting, lifting, pushing, pulling, standing and walking. Appellant indicated that he had surgeries on his knees in 2006. He attributed his plantar fasciitis to walking with heavy parcels and tubs full of mail, as well as pushing and pulling heavy equipment. Appellant stated that he developed left radial tunnel syndrome due to extensive casing of mail and repetitive grasping of mail, repetitive keying and grabbing mail and trays. In regards to his back condition, he stated that he experienced continuous pain in the middle and lower back which he attributed to pushing and pulling equipment, lifting tubs, trays and sacks of mail.

On January 17, 2002 Dr. Mark E. Kutner, Board-certified in pulmonology, diagnosed acute low back pain and recommended light duty. On May 25, 2002 he diagnosed history of low back pain with bulging disc and a recent motor vehicle accident. On July 8 and 9, 2002 a physician diagnosed low back pain. In a note dated April 1, 2009, Dr. Elizabeth A. Ouellette, a hand surgeon, diagnosed right wrist arthritis and wrist surgery on March 23, 2009.

By decision dated June 22, 2009, OWCP denied appellant's claim finding that there was no medical evidence providing a diagnosis of a condition caused by the repetitive employment duties implicated by him.

Counsel requested reconsideration on June 17, 2010. Dr. Ouellette completed a note on November 5, 2009 and diagnosed scapholunate dissociation and tear. She stated, "In [regards] to [appellant's] statement of [June 23, 2009] and his indication of the repetitiveness of the use of his hands at work and lack of other history of trauma to the hands, the nature of the work duties caused the diagnosed condition in [regards] to the right upper extremity." Dr. Ouellette stated that she performed surgery on March 23, 2009 due to arthritis including a limited wrist fusion with interposition arthroplasty. She opined that appellant had not yet reached maximum medical improvement and could perform light duty with restrictions on repetitive activities and lifting more than 20 pounds.

Appellant submitted a narrative statement noting that he began working at the employing establishment in 1997 and used his hands constantly pushing and pulling heavy equipment, carrying and sorting mail and feeding mail into machines. He stated that in 2002 he began

performing heavier work which required him to bend his wrists to pull tubs of mail. Appellant also moved parcels weighing up to 70 pounds.

By decision dated August 30, 2010, OWCP reviewed the merits of appellant's claim and found that, although he had provided a detailed description of his employment duties and the development of his symptoms, the medical evidence diagnosing scapholunate tear of the wrist was not sufficiently detailed to explain how the implicated employment duties caused or contributed to the diagnosed condition.

### **LEGAL PRECEDENT**

OWCP's regulations define an occupational disease as "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 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 claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.<sup>3</sup>

### **ANALYSIS**

Appellant has alleged that he developed several medical conditions bulging discs, torn meniscus in both knees, radial tunnel syndrome in the left elbow, plantar fasciitis, bilateral heel spurs and scapholunate ligament tear of the wrist. The record includes medical notes from physicians diagnosing only left radial tunnel syndrome, low back pain, right wrist arthritis and scapholunate dissociation and tear. There is no medical evidence in the record diagnosing the remaining conditions alleged by appellant including bulging discs, torn meniscus in both knees, plantar fasciitis and bilateral heel spurs. Appellant has failed to comply with the first requirement to establish an occupational disease, a medical diagnosis, in regards to these conditions.

Appellant has submitted statements describing his employment duties over the years and asserting that the repetitive, walking, standing, lifting, carrying, pushing and pulling in the course of his employment resulted in the medical conditions listed. In regards to the conditions of left radial tunnel syndrome, low back pain, right wrist arthritis and scapholunate dissociation and tear only, he has fulfilled the first two elements of an occupational disease claim. However, the

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<sup>2</sup> 20 C.F.R. § 10.5(q).

<sup>3</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

Board finds that appellant has not submitted the necessary rationalized medical opinion evidence needed to establish a causal relationship between these diagnosed conditions and his implicated employment duties. Appellant has only submitted notes which provide a diagnosis for left radial tunnel syndrome and low back pain. The notes diagnosing these conditions did not include a description of his job duties and did not provide an opinion that these job duties could or did result in the diagnosed conditions. Due to the lack of medical opinion evidence, appellant has not met his burden of proof in establishing that he developed bulging discs or low back pain and radial tunnel syndrome in the left elbow.

The only medical opinion evidence submitted by appellant consists of Dr. Ouellette's note dated November 5, 2009 diagnosing scapholunate dissociation and tear. Dr. Ouellette opined that appellant's repetitive use of his hands at work caused this right upper extremity condition and resulting surgery. This report is not sufficient to meet his burden of proof as Dr. Ouellette did not provide a history of injury explaining which repetitive work duties she felt caused or contributed to the scapholunate dissociation and tear. Dr. Ouellette also failed to provide any medical reasoning explaining how the implicated work duties could have resulted in the diagnosed condition. Without an appropriate history of injury and medical reasoning this report is not sufficient to meet appellant's burden of proof to establish an occupational disease or require further development of the medical evidence by OWCP.

The Board disagreed with counsel's assessment of the medical evidence. Dr. Ouellette's report is not sufficiently detailed to require further development as there is no listing of the employment duties which she felt could have caused or contributed to appellant's condition and only a blanket statement that his condition was due to his employment as there was no history of trauma described by him. Without further detail and explanation this report is insufficient.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant failed to meet his burden of proof in establishing that he developed an occupational disease due to his federal job duties.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 30, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 16, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board