



## **FACTUAL HISTORY**

On December 17, 2010 appellant, then a 41-year-old clerk, filed an occupational disease claim alleging that she had sustained carpal tunnel as a result of her employment. She explained that her hands became numb, especially at the end of the workday. Appellant noted that she had performed repetitive hand motions when completing computer scanning, as well as lifting and sorting of parcels, weighing up to 70 pounds.

Appellant submitted an undated statement, in which she stated that she was diagnosed with carpal tunnel on December 20, 2010, and that she believed the repetitive nature of her duties at work was responsible for her condition. She noted that she had worked for the employing establishment for six years, working three to nine hours a day, six days a week performing the previously described repetitive tasks.

Appellant's supervisor submitted a narrative statement on January 20, 2011 confirming appellant's statement. She stated that appellant typically worked 32 hours per week on average, and that appellant's duties typically include dumping, sorting, scanning parcels, boxing mail and computer work. Appellant's supervisor noted that, when appellant worked at the window, the duration would be three to six hours, and when she was assigned dispatch duty, she would be expected to lift up to 70 pounds, working a keyboard and touchpad, as well as sorting and scanning.

On January 24, 2011 OWCP received unsigned electrodiagnostic test results dated December 17, 2010. These results were accompanied by a note from Thomas H. Johnson, P.T. dated December 17, 2010, which stated that the test results are compatible with carpal tunnel syndrome, and that appellant's right hand's motor terminal latency is mildly slow, while her left hand's motor terminal latency is severely slow.

In a February 23, 2011 letter, OWCP requested that appellant submit additional evidence, including a medical report which included dates of examination and treatment, history of injury given by appellant to the physician, detailed descriptions of the findings, results of all testing, diagnosis and clinical course of treatment followed, and the physician's opinion supported by a medical explanation as to how the reported work incident caused or aggravated the claimed injury.

In response to OWCP's request, appellant resubmitted the December 17, 2010 diagnostic test results.

By decision dated April 18, 2011, OWCP denied appellant's claim for occupational disease on the grounds that she had submitted insufficient medical evidence to establish her claim.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden to establish the essential elements of her claim including the fact that the individual was an employee of the United States

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

within the meaning of FECA, that the claim was timely filed, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup>

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.<sup>4</sup>

Section 8101(2) of FECA provides that the term “physician” includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. As nurses, physician’s assistants, physical and occupational therapists are not “physicians” as defined by FECA, their opinions regarding diagnosis and causal relationship are of no probative medical value.<sup>5</sup>

### ANALYSIS

The Board notes that appellant has established that she performed repetitive work activities in the course of her federal employment. Appellant has however submitted insufficient medical evidence to establish that she had sustained carpal tunnel syndrome due to her employment conditions.

OWCP informed appellant that she needed to submit a medical report that included history of injury, diagnosis of her medical condition and medical rationale explaining the relationship of that condition to her employment. Appellant submitted the December 17, 2010 diagnostic test results in response to that request, which noted a diagnosis of carpal tunnel syndrome. However, the document contained no history of injury and was signed by a physical therapist; as noted above, physical therapists are not physicians and their opinions regarding diagnosis and causal relationship are of no probative medical value. The Board finds that appellant has not submitted any probative medical report which contains a recitation of her employment duties, and which explains how physiologically she sustained carpal tunnel syndrome as a result of those duties.

As the only medical documents pertaining to appellant’s medical condition are of no probative medical value, appellant had failed to meet her burden of proof to establish that her carpal tunnel syndrome was caused by her federal employment duties. While she has explained why she believes she sustained carpal tunnel syndrome as a result of her employment, the

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<sup>3</sup> *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>5</sup> *See Roy L. Humphrey*, *supra* note 4.

employee's lay opinion is not relevant to the medical issue in this case, which can only be resolved through the submission of probative medical evidence from a physician.<sup>6</sup>

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

**CONCLUSION**

The Board finds that appellant failed to establish that she sustained a medical condition causally related to her employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 18, 2011 is affirmed.

Issued: December 8, 2011  
Washington, DC

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

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

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

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<sup>6</sup> *Gloria J. McPherson*, 51 ECAB 441 (2000).