

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

D.W., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Charleston, WV, Employer**

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**Docket No. 10-1015
Issued: January 10, 2011**

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
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 1, 2010 appellant filed a timely appeal from the January 12, 2010 merit decision of the Office of Workers' Compensation Programs. 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 he sustained an injury in the performance of duty, causally related to his employment.

FACTUAL HISTORY

On July 2, 2008 appellant, a 62-year-old electronics technician, filed an occupational disease claim (Form CA-2) for carpal tunnel syndrome, which he attributed to his employment duties. He first became aware of his condition on July 1, 2005. Appellant realized his carpal tunnel was caused by his federal employment on May 30, 2008. On June 13, 2008 he attributed his carpal tunnel condition to repetitive hand and wrist motions required while repairing electronic equipment and using a vacuum cleaner to clean equipment.

By letter dated July 25, 2008, the employing establishment controverted appellant's claim, noting that the duties he performed were not for extended periods of time.

By decision dated September 29, 2008, the Office denied appellant's claim. It accepted the employment factors he deemed responsible for his condition but found the evidence of record insufficient to establish causal relation.

On October 8, 2008 appellant requested reconsideration.

Appellant submitted diagnostic tests and a June 30, 2008 report from Dr. Suresh G. Kumar, a Board-certified internist, who advised that a nerve conduction study revealed bilateral carpal tunnel syndrome and bilateral ulnar neuropathy.

On September 5, 2008 Dr. David Weinsweig, a Board-certified neurosurgeon, listed findings on examination, reviewed appellant's history of injury and diagnosed peripheral entrapment syndrome. Dr. Weinsweig noted that appellant used his hands quite a bit at work and attributed the diagnoses to appellant's job duties caused by chronic repetitive use of his arms and hands.

By decision dated October 30, 2008, the Office denied the claim finding that the medical evidence did not establish that his hand or wrist condition was caused by the accepted employment factors.

On October 19, 2009 appellant, through his attorney, requested reconsideration.

In a September 24, 2009 report, Dr. Luis Bolano, a Board-certified orthopedic surgeon, presented findings on examination and diagnosed carpal tunnel and cubital tunnel syndromes. He opined that appellant's condition was clearly occupationally related because the work environment and work-related symptoms met the criteria for an occupationally-related disease process.

By decision dated January 12, 2010, the Office denied modification of its October 30, 2008 decision finding that the medical evidence did not establish that the accepted employment factors caused appellant's 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 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *G.T.*, 59 ECAB 447 (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

The Office accepted that appellant performed employment duties such as repairing and cleaning electronic equipment. It denied his carpal tunnel condition claim as causally related to the accepted employment factors. Causal relationship is a medical issue that can only be established by probative medical opinion evidence. The Board finds that appellant has not submitted sufficient medical evidence to establish causal relationship.

The treating physicians of record did not provide a comprehensive history of the employment factors alleged or how the accepted factors would cause or contribute to carpal tunnel syndrome or entrapment neuropathy. While Dr. Weinsweig noted that appellant used his hands quite a bit at work, he did not describe appellant's specific employment duties or tasks. He did not address the periods of time such duties were performed or how they were competent to cause entrapment syndrome. Dr. Weinsweig's conclusion that the conditions he diagnosed were caused by appellant's use of his arms and hands, is not sufficiently rationalized as it is unsupported by medical rationale or based on a complete and accurate factual background.

Dr. Bolano stated that appellant's condition was clearly occupationally related given the work environment and work-related symptoms that met the criteria for an occupationally-related

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 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

disease process. He did not define the “criteria for an occupationally-related disease process” or explain how specific aspects of appellant’s duties would cause cubital or carpal tunnel syndrome. Dr. Bolano did not discuss or describe the accepted employment factors or how the conditions he diagnosed related to repairing electronic equipment. His opinion is not sufficiently rationalized to support appellant’s claim.

Dr. Kumar addressed the results of diagnostic studies but offered no opinion regarding causal relationship. For these reasons, her reports are not sufficient to establish causal relationship.

An award of compensation may not be based on surmise, conjecture or speculation.⁸ Neither the fact that appellant’s claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁹ 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.

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

CONCLUSION

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

⁸ *Edgar G. Maiscott*, 4 ECAB 558 (1952).

⁹ *D.I.*, 59 ECAB 158 (2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

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 January 12, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2011
Washington, DC

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

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

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