

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

D.G., Appellant

and

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

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**Docket No. 10-1164
Issued: January 3, 2011**

Appearances:
Appellant, pro se
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 24, 2010 appellant filed a timely appeal from a November 6, 2009 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 met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On August 12, 2009 appellant, then a 51-year-old distribution clerk, filed an occupational disease claim alleging that she sustained bilateral carpal tunnel syndrome as a result of manually distributing letters, flats and box mail for 16 years. She first became aware of her condition on March 22, 2004 but did not attribute it to her employment until August 3, 2009, when her physician informed her that it was work related. Appellant previously filed an unsuccessful claim for carpal tunnel syndrome. She stopped working on July 24, 2009.

In an August 18, 2009 statement, Brad Lukacic, an employing establishment human resources specialist, noted that appellant had two previous claims involving her left arm including a claim involving the left thumb that was recently denied. He indicated that she had recent surgery for carpal tunnel syndrome that she attributed to her employment.¹

In an August 20, 2008 treatment note, Dr. W. Garrison Strickland, a Board-certified neurologist, commented that appellant complained of bilateral numbness and tingling of the hands, neck pain and an electrical sensation in the feet. He noted that she had a two-year history of bilateral hand pain. Dr. Strickland performed an electromyogram (EMG) and nerve conduction study and found evidence of severe right and mild left median nerve entrapment at the wrists. He diagnosed bilateral carpal tunnel syndrome and possible peripheral neuropathy.

In an August 27, 2008 report, a physician's assistant stated that appellant underwent carpal tunnel release surgery for her left hand, but experienced postoperative numbness. Appellant also experienced more severe numbness in her right hand. The report commented that she performed "a lot of work with her hands" for the employing establishment which aggravated her condition. The physician's assistant noted findings and diagnosed bilateral carpal tunnel syndrome, specifying that the right hand was worse.

In an October 22, 2008 note, Dr. Damon H. Petty, a Board-certified orthopedic surgeon, stated that appellant continued to complain of bilateral carpal tunnel syndrome. He added that an EMG showed severe entrapment of the right hand and mild entrapment of the left hand.

In a March 25, 2009 follow-up report, Dr. Strickland commented that appellant had worsening hand pain and paresthesia. He examined her and observed decreased sensory responses in the hands and feet. Dr. Strickland performed another EMG and nerve conduction study and noted evidence of severe right and moderate left median nerve entrapment at the wrists and a small subcutaneous nodule in the right radial wrist. He diagnosed progressive bilateral carpal tunnel syndrome and denervation of the right wrist.

In an August 3, 2009 note, Dr. Strickland reiterated that appellant sustained carpal tunnel syndrome. He opined that, based on the information provided by appellant, her diagnosis and neurologic symptoms "may have been exacerbated by working as a postal clerk."

In an August 26, 2009 letter, the Office informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the evidence needed to establish her claim. The Office subsequently received a distribution clerk job description and a May 28, 2002 on-site job analysis conducted by an occupational therapist.

By decision dated November 6, 2009, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that her carpal tunnel syndrome was caused or aggravated by work-related factors.

¹ Matters regarding other claims are not before the Board on the present appeal.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁵ To establish fact of injury in an occupational disease claim, 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 evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's 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, 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 claimant.⁷

ANALYSIS

The evidence supports that appellant manually distributed letters, flats and box mail for the employing establishment. The evidence also supports that she has been diagnosed with bilateral carpal tunnel syndrome. However, appellant has not provided sufficient medical evidence to establish that her diagnosed condition is causally related to the asserted employment factors.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *See S.P.*, 59 ECAB 184, 188 (2007).

⁶ *See R.R.*, 60 ECAB ____ (Docket No. 08-2010, issued April 3, 2009); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005).

⁷ *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, *supra* note 4 at 352.

In August 20, 2008 and March 25, 2009 reports, Dr. Strickland diagnosed carpal tunnel syndrome based on appellant's symptoms, history, physical examinations and two EMG's and nerve conduction studies. On both occasions, however, he did not attribute her condition to any of her employment activities. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁸ Dr. Strickland later offered his opinion in an August 3, 2009 note that appellant's carpal tunnel syndrome may have been exacerbated by her work as a postal clerk. Nonetheless, his opinion did not contain sufficient medical rationale explaining how appellant's employment duties, specifically manually distributing letters, flats and box mail, caused or aggravated the injury.⁹ Moreover, Dr. Strickland's opinion that her condition may have been exacerbated by her employment was speculative.¹⁰ He did not unequivocally explain the reasons why the particular implicated employment activities would cause or aggravate her carpal tunnel syndrome.

The other medical reports provided by appellant do not constitute rationalized medical opinion evidence of causal relationship. Dr. Petty's October 22, 2008 note, while affirming her carpal tunnel diagnosis, did not address the employment factors which exacerbated her condition. In addition, the physician's assistant's August 27, 2008 report is of no probative medical value because a physician's assistant is not a "physician" as defined under the Act.¹¹ For these reasons, the medical evidence is insufficient to establish appellant's claim for bilateral carpal tunnel syndrome.

CONCLUSION

The Board finds that appellant did not establish that she sustained an occupational disease in the performance of duty.

⁸ *E.K.*, 61 ECAB ____ (Docket No. 09-1827, issued April 21, 2010).

⁹ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

¹⁰ *Kathy A. Kelley*, 55 ECAB 206, 211 (2004) (the use of speculative terms diminishes the probative value of medical opinion evidence).

¹¹ 5 U.S.C. § 8101(2); *Allen C. Hundley*, 53 ECAB 551, 554 (2002).

ORDER

IT IS HEREBY ORDERED THAT the November 6, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 3, 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