

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

C.S., Appellant)

and)

**U.S. POSTAL SERVICE, PROCESSING &
DISTRIBUTION CENTER, San Antonio, TX,
Employer**)

**Docket No. 10-1406
Issued: January 13, 2011**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 19, 2010 appellant filed a timely appeal of a December 11, 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 his burden of proof to establish that he sustained bilateral carpal tunnel syndrome as a result of his federal employment.

FACTUAL HISTORY

On September 14, 2009 appellant, then a 46-year-old mail handler, filed an occupational disease claim alleging bilateral carpal tunnel syndrome. He noted that he was 20 percent disabled in both shoulders and developed carpal tunnel from repetitive lifting of heavy tubs at work and lack of shoulder support. Appellant first became aware of his condition and that it was

caused by his employment in March 2009. He stopped work on July 30, 2009. The employing establishment controverted the claim.

In a September 25, 2009 letter, the Office advised appellant that the evidence submitted was insufficient to support his claim, as he did not provide a complete history of his condition or a physician's report with a diagnosis and opinion regarding the causal relationship between his condition and his federal employment. It specifically requested that he describe in detail those employment-related activities he believed contributed to his condition, all activities he was involved in outside of his federal employment and any previous injuries to the hand, arm or wrist. The Office also requested a comprehensive medical report from a treating physician. It also requested that his employer provide further information regarding appellant's duties.

Appellant submitted an undated personal narrative. He had a 20 percent disability rating from the Department of Veterans Affairs for left and right shoulder degenerative joint disease. Appellant performed his job by himself, even though three people were usually required to work in the area. He lifted heavy tubs because they were full of flat mail. Appellant experienced pain in his shoulder by reaching all the way down to his hands after work.

Appellant submitted a February 26, 2009 decision from the Department of Veterans Affairs which granted him benefits for left and right shoulder degenerative joint disease.

In an April 10, 2009 progress note, Dr. Thomas V. Vu, a Board-certified internist, stated that appellant had probable bilateral carpal tunnel syndrome and wrist strain. An April 10, 2009 note signed by a registered nurse, recorded that appellant was seen for bilateral wrist pain and chronic numbness of the hands that progressively worsened. The nurse noted a history of bilateral wrist pain for the past two to three weeks as a result of changing stations at the employing establishment and lifting about a thousand mail tubs a day.

Appellant also submitted medical records pertaining to surgery on his left shoulder, including radiology reports interpreted by Dr. Diane M. Icenogle-Leuschen, a Board-certified radiologist. He was seen for status post left shoulder arthroplasty. A September 17, 2009 radiology report also noted a left shoulder arthroplasty. Dr. Icenogle-Leuschen observed that the device was anatomically aligned with no periprosthetic fracture or loosening and no soft tissue abnormalities were identified.

An April 15, 2009 note from a registered nurse advised that appellant requested that his primary care physician place him on light-duty status and list probable bilateral carpal tunnel and wrist strain.

In a July 14, 2009 letter, appellant was approved for light duty from July 13 to August 13, 2009. In an April 24, 2009 letter, Dr. Teresa E. Hamm, a Board-certified family practitioner, confirmed that appellant was a patient and advised that he should avoid lifting objects weighing more than 10 pounds.

In a December 11, 2009 decision, the Office denied appellant's claim. It found the medical evidence insufficient to establish carpal tunnel syndrome due to his federal employment.

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 reliable, probative and substantial evidence² 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 For 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.⁴

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁵ 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 specified employment factors or incident.⁶ 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 The 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.⁸

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that an employee's condition surfaced during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁹

¹ 5 U.S.C. §§ 8101-8193.

² *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *M.M.*, 60 ECAB ___ (Docket No. 08-1510, issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

⁵ *I.R.*, 61 ECAB ___ (Docket No. 09-1229, issued February 24, 2010); *W.D.*, 61 ECAB ___ (Docket No. 09-658, issued October 22, 2009); *D.I.*, 59 ECAB 158 (November 6, 2007).

⁶ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *D.S.*, 61 ECAB ___ (Docket No. 09-860, issued November 2, 2009); *B.B.*, 59 ECAB 234 (2007).

⁸ *Gloria J. Mcpherson*, 51 ECAB 441 (2000).

⁹ *Supra* note 4.

ANALYSIS

The Board finds that appellant failed to meet his burden of proof to establish that he sustained bilateral carpal tunnel syndrome caused or aggravated by factors of his employment. The record reflects that his job required lifting heavy tubs of flat mail; however, he failed to submit medical evidence sufficient to establish that his bilateral carpal tunnel syndrome was contributed to by these activities.

In an April 10, 2009 note, Dr. Vu noted treating appellant for probable bilateral carpal tunnel syndrome and wrist strain. He listed a diagnosis of appellant's condition but he did not provide any opinion addressing whether appellant's employment duties caused or aggravated the diagnosed conditions. Dr. Vu's report did not review a history of appellant's employment duties, specifically any repetitive lifting of heavy tubs of mail. He did not explain how appellant's employment duties would be completed to cause the diagnosed bilateral carpal tunnel syndrome. The Board notes that Dr. Vu did not provide any history of appellant's preexisting upper extremity condition or medical opinion regarding the cause of appellant's carpal tunnel syndrome. In addition to the report of Dr. Vu, appellant provided reports from Dr. Icenogle-Leuschen concerning the progress of his left shoulder arthroplasty and information from Dr. Hamm about a 10-pound lifting restriction. Neither physician offered an opinion on whether appellant's bilateral carpal tunnel syndrome was causally related to his federal employment. The Board has held that 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.¹⁰

Appellant suggested that his preexisting shoulder conditions weakened his upper extremities and predisposed him to development of carpal tunnel syndrome. However, it is well established that an employee's belief of causal relation does not establish the fact of such medical question.¹¹

The record contains progress report notes from registered nurses. The Board has noted, however, that a nurse is not a physician as defined under the Act. These reports are of no probative value.¹²

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he suffered from bilateral carpal tunnel syndrome as a result of his federal employment.

¹⁰ *C.B.*, 61 ECAB ___ (Docket No. 09-2027, issued May 12, 2010); *J.F.*, 61 ECAB ___ (Docket No. 09-1061, issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

¹¹ See *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹² *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009); *E.H.*, 60 ECAB ___ (Docket No. 08-1862, issued July 8, 2009).

ORDER

IT IS HEREBY ORDERED THAT the December 11, 2009 decision of the Office of Workers' Compensation Program is affirmed.

Issued: January 13, 2011
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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