

between the racks. The form is signed on July 10, October 29 and November 19, 2008. On the reverse of the form, appellant's supervisor indicated that he received notice of the injury on November 19, 2008.

Dr. Susan J. Liu, a Board-certified orthopedic surgeon, completed a note on October 10, 2008 and stated that appellant sustained a work-related injury on June 7, 2008 when she "banged her left elbow between two racks." She noted that appellant's initial diagnosis was carpal tunnel syndrome and then mild left ulnar nerve neuropathy. Dr. Liu found a positive Tinel's tap at the left ulnar groove with radiating pain into her fourth and fifth digits. Appellant had no atrophy in the hypothenar eminence and intact sensation, while electrodiagnostic testing revealed mild left ulnar entrapment neuropathy across the elbow. Dr. Liu examined appellant on October 29 and November 13, 2008 and diagnosed traumatic left ulnar neuropathy "as a result of the work-related injury on June 7, 2008." On November 14, 2008 she repeated the diagnosis and indicated that appellant hit her elbow on the rack of an automation machine on June 11, 2008. On December 4 and 24, 2008 Dr. Liu again diagnosed left ulnar neuropathy and indicated that appellant required additional treatment.

In a letter dated February 13, 2009, OWCP requested additional factual and medical evidence from appellant in support of her claim. It stated that the evidence was not sufficient to establish that she actually experienced the employment incident and allowed 30 days for a response.

Dr. Liu completed a report on March 2, 2009 and again diagnosed ulnar neuropathy as a result of her work-related injury on June 7, 2008.

Appellant stated that she had advised her supervisor of the incident on June 7, 2008. She stated that she was setting up the machine to run the mail which was not within her regular duties without assistance. Appellant alleged that she attempted to adjust the racks when her arm became wedged between the rack she was lifting and the last rack of the machine. She stated that she experienced an immediate sharp pain and that a few seconds later her arm and hand went numb. Appellant wiggled her arm and sensation returned with no pain. She stated that she attempted to secure an appointment with her physician, who was out on vacation for two weeks. Appellant scheduled an appointment with "Patient First" on July 11, 2008. She detailed her medical treatment.

Appellant submitted notes from Patient First beginning on July 11, 2008 which listed her date of injury as June 11, 2008, noted this was a workers' compensation visit summary and diagnosed carpal tunnel syndrome. She sought additional treatment on July 21, August 5 and October 5 and 9, 2008. Dr. Johannes Riem, a Board-certified neurologist, completed testing on September 23, 2008, which demonstrated a mild left ulnar entrapment neuropathy across the elbow and no evidence of carpal tunnel syndrome. Appellant also submitted a note from Dr. Richard D. Kinnard, a Board-certified orthopedic surgeon, dated October 3, 2008 diagnosing mild left ulnar neuropathy. Dr. Kinnard noted that she underwent electrodiagnostic studies, which demonstrated mild left ulnar nerve entrapment neuropathy.

Dr. Liu completed a duty status report on April 3, 2009 and indicated that appellant hit her left elbow on a rack and diagnosed left ulnar neuropathy.

By decision dated May 13, 2009, OWCP stated that although appellant had filed a timely claim establishing that on June 7, 2008 while performing her job duties, her left arm became stuck between two racks it further found that the medical evidence did not establish that the claimed medical condition resulted from the accepted employment incident. Appellant, through her attorney, requested a telephonic hearing on May 18, 2009.

Appellant testified at the hearing on September 22, 2009 and again described her employment injury. She stated that she was adjusting steel racks which were eight by four feet, when a rack rolled back pinning her elbow against another rack. Appellant asserted that she had provided a consistent history of injury.

Following the oral hearing, appellant submitted a form report diagnosing carpal tunnel syndrome bilateral as well as traumatic ulnar neuropathy of the left elbow. This form was signed by an orthopedic surgeon whose signature is illegible on October 8, 2008. Appellant also submitted additional documentation from Patient First indicating that her first visit was July 11, 2008 and that she returned on July 21 and 29, 2008 as well as October 5 and 9, 2008. She sought treatment from Dr. Kinnard on August 29, 2008 and he found bilateral hand pain greater on the left and numbness of two months' duration. Dr. Kinnard listed appellant's history of striking the medial aspect of her left elbow two months previously and stated that the radiating pain was resolving. Appellant also reported left hand pain associated with paresthesias and numbness in the second, third and fourth fingers. Dr. Kinnard found no gross motor deficits, but a positive Phalen's test on the left and a minimally positive Tinel's sign at the ulnar nerve and the medial aspect of the left elbow. He diagnosed carpal tunnel syndrome and traumatic ulnar neuropathy of the left elbow. Dr. Kinnard recommended electrodiagnostic testing and stated, "I think the ulnar nerve symptoms are likely a result of the mild trauma and it should resolve with time."

By decision dated December 9, 2009, the hearing representative affirmed OWCP's May 13, 2009 decision denying appellant's claim finding that the medical evidence did not meet her burden of proof.

LEGAL PRECEDENT

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."² An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the

² 20 C.F.R. § 10.5(ee).

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁵ Second, the employee must submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.⁶ A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁷ Medical rationale includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.⁸

ANALYSIS

OWCP has accepted that the employment incident occurred as alleged on June 7, 2008 when appellant’s left elbow was impacted by the racks she was moving in the performance of duty. The issue before the Board is whether the medical evidence is sufficient to establish that this incident resulted in a diagnosed injury.

Appellant initially sought treatment from Patient First beginning in July 2008. The physicians of this practice diagnosed carpal tunnel syndrome. Appellant has not claimed that she developed carpal tunnel syndrome as a result of the accepted employment incident and these reports do not support any additional condition.

Appellant next sought treatment from Dr. Kinnard who examined her on August 29 and October 3, 2008. On August 29, 2008 Dr. Kinnard noted her employment incident of left elbow trauma and the resulting radiating pain. He performed a physical examination finding a positive Phalen’s test on the left and a minimally positive Tinel’s sign at the ulnar nerve and the medial aspect of the left elbow. Dr. Kinnard diagnosed carpal tunnel syndrome as well as traumatic ulnar neuropathy of the left elbow. He stated, “I think the ulnar nerve symptoms are likely a result of the mild trauma and it should resolve with time.”

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

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *J.Z.*, 58 ECAB 529 (2007).

⁷ *T.F.*, 58 ECAB 128 (2006).

⁸ *A.D.*, 58 ECAB 149 (2006).

Dr. Kinnard has reported appellant's history of injury, provided physical findings and opined that the diagnosed condition of traumatic ulnar neuropathy of the left elbow was the result of her left elbow employment incident. While this report is supportive of her claim, he did not offer any medical reasoning in support of his opinion explaining how the employment incident resulted in diagnosed condition of ulnar neuropathy. Dr. Kinnard did not explain why and how he believed that appellant's employment incident resulted in the diagnosed condition. Due to this defect, his report is not sufficient to meet her burden of proof.

Appellant also submitted a series of notes from Dr. Liu diagnosing left ulnar neuropathy. Dr. Liu first provided a history that appellant sustained a work-related injury on June 7, 2008 when she banged her left elbow between two racks or hit her elbow on the rack of an automation machine. Appellant reported findings on physical examination including a positive Tinel's tap at the left ulnar groove with radiating pain into her fourth and fifth digits, but no atrophy of the hypothenar eminence.

Dr. Riem completed testing on September 23, 2008, which demonstrated a mild left ulnar entrapment neuropathy across the elbow and no evidence of carpal tunnel syndrome. He did not provide a history of injury nor medical opinion attributing appellant's diagnosed condition to her employment. Dr. Riem's report is, therefore, not sufficient to meet her burden of proof.

Dr. Liu reviewed Dr. Riem's electrodiagnostic findings and diagnosed traumatic left ulnar neuropathy "as a result of the work-related injury on June 7, 2008." Like Dr. Kinnard, Dr. Liu provided a consistent history of injury and diagnosis of left ulnar neuropathy. She also opined that appellant's condition was due to appellant's accepted employment incident. Dr. Liu, however, also failed to provide medical rationale explaining how appellant's diagnosed condition arose from the accepted employment incident. Without medical reasoning explaining how the employment incident resulted in the diagnosed condition, this report is not sufficient to meet her burden of proof.

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 has failed to submit the necessary rationalized medical opinion evidence to establish a causal relationship between her accepted employment incident and her diagnosed condition of left ulnar neuropathy and has, therefore, failed to meet her burden of proof.

ORDER

IT IS HEREBY ORDERED THAT the December 9, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 21, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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