

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

H.L., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Westport, CT, Employer**

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**Docket No. 10-2011
Issued: June 23, 2011**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 3, 2010 appellant filed a timely appeal from a July 15, 2010 merit decision of the Office of Workers' Compensation Programs denying his claim. Pursuant to the Federal Employees' Compensation Act¹ and 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 has met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On January 6, 2009 appellant, then a 37-year-old mail carrier, filed an occupational disease claim alleging that he sustained a work-related injury due to his federal employment on or before December 15, 2008. He did not describe the specific nature of his injury, but indicated

¹ 5 U.S.C. § 8101 *et seq.*

that he had surgery for a torn ligament in his left hand and his left wrist did not get better. Appellant denied any nonemployment cause of his conditions. The employing establishment noted that he had been out of work since June 2008.

In a December 15, 2008 report, Dr. David B. Brown, a Board-certified orthopedic surgeon, stated that appellant was followed for a June 6, 2008 work-related injury. He noted appellant's complaints of ongoing neck pain with a sense of radiation to the shoulders and upper arms. A December 9, 2008 electromyogram (EMG) of both arms was remarkable for cervical radiculopathy involving C5 and C6, right side more severe than left. Dr. Brown noted moderately severe median neuropathy of the wrist, right equal to left. He stated that a December 3, 2008 magnetic resonance imaging (MRI) scan of the lumbar spine was negative. Dr. Brown assessed right cervical radiculopathy and bilateral carpal tunnel symptomatology. A consultation with a neurosurgeon was recommended.

In a January 13, 2009 letter, the Office advised appellant that it was unable to determine whether he was eligible for benefits under the Act as he failed to state what work duties caused or aggravated his condition or identify the medical condition he was claiming. It noted that Dr. Brown appeared to relate an injury that occurred prior to the date claimed. Appellant was requested to provide additional factual and medical evidence, including a rationalized opinion from his physician explaining how work activities caused a claimed condition. The Office also requested the employing establishment to provide a description of his work duties.

In a January 20, 2009 letter, the employing establishment questioned how appellant's carpal tunnel condition arising on or about December 15, 2008 could be related to work as he had not worked since June 2008 due to a different injury.

By decision dated February 27, 2009, the Office denied appellant's finding that he failed to provide a statement identifying specific employment factors or conditions he felt caused or contributed to a claimed condition.

On March 18, 2009 appellant requested an oral hearing which was held on September 29, 2009. He testified that he had injured his neck and also had a lot of pain in his hands. Appellant stated that the physicians did not know the cause of his pain but that a December 9, 2008 EMG showed that he had carpal tunnel syndrome in both hands. His hand symptoms began before he was treated for a torn ligament in the left hand. Appellant worked sorting mail for about 17-1/2 years which involved repetitive motion, lifting and grabbing and holding. He felt his work duties were responsible for his carpal tunnel condition. Appellant noted that his neck condition was a work-related injury that occurred on June 6, 2008 and that he had neck surgery on March 12, 2009.² A copy of his March 12, 2009 surgical report for his cervical disc herniation at C4-C5, C5-C6 and C6-C7 was submitted to the record.

At the hearing appellant submitted a December 9, 2008 EMG report, which found moderately severe median neuropathy at both the right and left wrist; a copy of Dr. Brown's December 15, 2008 report, previously of record and two September 23, 2009 reports from Dr. Craig G. Gunderson, a Board-certified internist, who noted that appellant was seeking

² The claim for the June 6, 2008 injury is not before the Board on the present appeal.

workers' compensation for carpal tunnel syndrome and reported bilateral hand symptoms of cramping, swelling and joint discomfort. A nerve conduction study of October 2008 showed bilateral "moderately severe" median neuropathy (carpal tunnel syndrome). Dr. Gunderson stated that appellant attributed his hand and wrists symptoms to the repetitive motion of his work. Appellant reported that he worked as a letter carrier for 17 years, which included sorting mail daily for two to four hours a day and involved constantly picking up letters and sorting them into mail slots. Dr. Gunderson noted that the October 2008 nerve conduction study showed bilateral "moderately severe" carpal tunnel syndrome.

In an October 21, 2009 statement, appellant detailed his job duties. He concluded that his repetitive work activity over many years led to his bilateral carpal tunnel syndrome.

In a December 15, 2009 decision, an Office hearing representative affirmed the denial of the claim to find that the medical evidence did not establish that the claimed bilateral carpal tunnel syndrome was causally related to appellant's work duties.

Appellant requested reconsideration and submitted copies of material previously of record. He submitted a copy of a December 23, 2009 EMG study, noting moderate to severe left cubital tunnel syndrome and mild bilateral carpal tunnel syndrome; an undated statement; a February 25, 2010 written inquiry from his congressman and a March 4, 2010 Office response to the congressman; medical reports regarding a June 1, 2006 injury³; a January 10, 2010 letter from a union representative; a May 12, 2010 treatment note from an occupational therapist and a May 12, 2010 cervical spine x-ray report.

In a November 2, 2009 report, Dr. Thomas P. Moran, a Board-certified orthopedic surgeon, treated appellant for de Quervain's tendinitis following a June 1, 2006 work injury. He stated that Dr. Brown had performed a de Quervain's release and that appellant also had a previous cervical fusion. Dr. Moran advised that appellant recently complained of hand numbness and that a recent EMG was consistent with moderately severe carpal tunnel syndrome. He opined that appellant's bilateral carpal tunnel syndrome was "likely work related." In a January 15, 2010 report, Dr. Moran noted findings and listed an impression of advanced cubital tunnel syndrome and mild carpal tunnel syndrome. He opined both conditions were work related and should be addressed surgically.

By decision dated July 15, 2010, the Office denied modification of its previous decision.

LEGAL PRECEDENT

An employee seeking benefits under the Act⁴ has the burden of establishing the essential elements of his or 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 filed within the applicable time

³ This claim number xxxxxx018, was accepted for left radial styloid tenosynovitis or de Quervain's disease. Matters regarding this claim are subject to a separate appeal that is proceeding before the Board. Docket No. 10-2073.

⁴ 5 U.S.C. §§ 8101-8193.

limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.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

To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁷ Rationalized medical opinion evidence is medical evidence which 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 factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.⁸ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁹

ANALYSIS

The Board finds that appellant did not meet his burden of proof to establish that employment factors caused or aggravated his claimed bilateral carpal tunnel syndrome.

Dr. Brown provided an assessment of right cervical radiculopathy and bilateral carpal tunnel symptomatology. As he appeared to relate these conditions to a June 6, 2008 work-related injury, his opinion has limited probative value in establishing appellant's claim for a condition arising on or about December 15, 2008. Additionally, Dr. Brown offered no rationale for his opinion on causal relationship to explain how particular work factors caused or

⁵ *Gary J. Watling*, 52 ECAB 357 (2001).

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *Id.*

⁸ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁹ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

aggravated his bilateral carpal tunnel syndrome. Where no such rationale is present, the medical opinion is of diminished probative value.¹⁰

The record contains two September 23, 2009 reports from Dr. Gunderson, which note that appellant has bilateral “moderately severe” carpal tunnel syndrome based on an October 2008 nerve conduction study. However, in both reports, Dr. Gunderson did not offer a specific opinion regarding the cause of appellant’s condition. The Board has long held that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship.¹¹ While Dr. Gunderson noted in one report that appellant attributes his condition to the repetitive motion of his sorting duties, he did not offer his own opinion on the causal relationship of appellant’s diagnosed condition. Therefore, his reports are insufficient to meet appellant’s burden of proof.

In a November 2, 2009 report, Dr. Moran found moderately severe carpal tunnel syndrome that he noted to be “likely work related.” In his January 15, 2010 report, he provided an impression of advanced cubital tunnel syndrome and mild carpal tunnel syndrome. Dr. Moran opined that both conditions were work related. However, his opinion on causal relationship is of limited probative value in that he did not offer or provide medical rationale in which he explained how particular work factors caused or aggravated the diagnosed conditions. Dr. Moran did not describe appellant’s work duties or indicate any knowledge of such duties such that it could have been the cause of appellant’s diagnosed conditions. Thus, his report is insufficient to support appellant’s claim.

The remaining medical evidence of record, including reports of MRI scans, x-rays and other diagnostic tests, which do not contain an opinion on causal relationship, are insufficient to establish that appellant’s bilateral carpal tunnel syndrome is causally related to employment factors.

Appellant expressed his belief that his bilateral carpal tunnel condition was related to his work duties of sorting mail. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.¹² Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.¹³ Causal relationship must be substantiated by reasoned medical opinion evidence, which it is appellant’s responsibility to submit.

As there is no probative, rationalized medical evidence addressing how appellant’s claimed carpal tunnel condition was caused or aggravated by his employment, he has not met his burden of proof to establish his claim.

¹⁰ *T.M.*, Docket No. 08-975 (issued February 6, 2009).

¹¹ *Michael Smith*, 50 ECAB 313 (1999).

¹² *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹³ *Id.*

On appeal, appellant contends that the medical evidence has established that he sustained an injury in the performance of duty. For reasons stated, the Board finds that the evidence is insufficient to establish that he sustained an injury in the performance of duty causally related to factors of his federal employment.

CONCLUSION

The Board finds that appellant had failed to establish that he sustained bilateral carpal tunnel syndrome causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated July 15, 2010 is affirmed.

Issued: June 23, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

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