United States Department of Labor
Employees' Compensation Appeals Board

W.S., Appellant	)	
and	)	**Docket No. 10-1550**
	)	**Issued: March 2, 2011**
U.S. POSTAL SERVICE, POST OFFICE, Lansing, MI, Employer	)	

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

JURISDICTION

On May 19, 2010 appellant filed a timely appeal from the Office of Workers' Compensation Programs' April 27, 2010 merit decision denying his occupational disease claim. 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 an injury in the performance of duty.

FACTUAL HISTORY

On November 13, 2008 appellant, then a 61-year-old clerk, filed an occupational disease claim alleging that he sustained a torn ligament in his right index finger as a result of employment activities, including pulling and pushing heavy equipment and sorting parcels. He began to experience pain in the right index finger in July 2008. In August 2008 appellant sought treatment and was diagnosed with a torn ligament and bone spurs. He opined that, because he

had bilateral carpal tunnel syndrome (CTS), the awkward positions required in handling and sorting mail resulted in a torn ligament.[1]

By letter dated November 20, 2008, the Office informed appellant that the information submitted was insufficient to establish his claim. It accepted that he performed the duties of pushing and pulling heavy equipment as claimed. The Office explained, however, that appellant was required to submit medical evidence establishing that he had a diagnosed medical condition that was causally related to factors of his work activities.

In a letter dated January 2, 2009, appellant informed the Office that he was in the process of obtaining a medical report in support of his claim.

By decision dated January 6, 2009, the Office denied appellant's claim, finding that the claimed work activities had occurred, but that there was no medical evidence of record which contained a diagnosis which connected his right index finger condition to the accepted events.

On February 9, 2009 appellant requested reconsideration.

In an October 10, 2008 report, Dr. William R. Truluck, a Board-certified osteopath, specializing in the field of orthopedic surgery, stated that appellant had been experiencing right index finger pain since "November," but noted "no real specific injury." On examination, there was point tenderness along the radial collateral ligament at the metatarsophalangeal (MP) joint of the right index finger. Appellant had a significant amount of point tenderness along his A-1 pulley volarly on his right index finger with decreased range of motion of that joint. X-rays and magnetic resonance imaging (MRI) scans revealed mild early degenerative changes of the right index MP joint. The MRI scan showed a tear of the right index MP joint. Dr. Truluck's impression was a right index radial collateral ligament injury. The record contains a December 11, 2008 report of an electrodiagnostic test performed by Dr. Frederick M. Vincent, Sr., a Board-certified physiatrist and neurologist, who noted right ulnar neuropathy and some carpal tunnel syndrome. The record also contains an August 14, 2008 report of a right hand x-ray and an August 27, 2008 report of an MRI scan of the right hand.

Appellant submitted a September 9, 2008 report from Dr. Michael McDermott, an orthopedic surgeon, whose examination revealed pain and redness around the metacarpophalangeal (MCP) joint. Dr. McDermott noted that appellant's symptoms suggested a diagnosis of gout.

The record contains a December 16, 2008 narrative report from Dr. Kenneth E. Stephens, a Board-certified orthopedic surgeon, who referenced appellant's duties as a mail clerk, which included sorting mail. Dr. Stephens described appellant's history of treatment for his bilateral carpal tunnel condition, for which he had undergone surgery in 1987. He stated that appellant suffered from discomfort associated with his right index finger at A-1 pulley with decreased flexion. Dr. Stephens reported that a December 11, 1008 electromyogram revealed bilateral

[1] The Board notes that appellant has filed 12 separate claims for injuries to different body parts, including File No. xxxxxx129, which was accepted for carpal tunnel syndrome.

median neuropathies; right ulnar neuropathy; and chronic neurogenic motor units in the C5-C6 nerve roots, indicating possible radiculopathy.

By decision dated March 13, 2009, the Office denied appellant's claim, finding that he failed to provide probative medical evidence to support a relationship between the right index finger ligament tear and his cited work activities.

In a December 13, 2008 letter, appellant stated that his employment duties since 1996 had included sorting, delivering, dispatching, scanning mail and maintaining express mail data on a daily basis. Until recently, he had been able to manage his bilateral carpal tunnel condition while working with restrictions.

On January 25, 2010 appellant requested reconsideration. In a November 17, 2009 report, Dr. Stephens noted that he had treated appellant for a right index finger stenosing tenosynovitis and bilateral carpal tunnel syndrome. Appellant also had a suggestion of a right ulnar neuropathy at the elbow. Dr. Stephens related that in the course of appellant's job over the course of the last several years, he used a pistol grip scanner, which required up to 1,000 activities a night using his finger and his wrist. He also stated that, during the course of appellant's work activities, he performed a significant amount of repetitive wrist flexion and extension activities, noting that these types of activities have been shown to be related to a median neuropathy and stenosing tenosynovitis. Dr. Stephens opined that appellant's work activities contributed to his ongoing condition.

By decision dated April 27, 2010, the Office denied modification of its March 13, 2009 decision. Noting that Dr. Stephens' history of work exposure was inconsistent with appellant's, the Office found that the record did not contain a rationalized medical opinion on the issue of causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 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 disability and/or specific condition 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]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual

[2] 5 U.S.C. §§ 8101-8193.

[3] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. 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.[5]

ANALYSIS

The Board finds that this case is not in posture for decision regarding whether appellant sustained an injury in the performance of duty.

An employee who claims benefits under the Act has the burden of establishing the essential elements of his or her claim. The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.[6] However, it is well established that proceedings under the Act are not adversarial in nature and while the claimant has the burden of establishing entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.[7]

The Office accepted that appellant was engaged in the employment activities as alleged. It denied his claim, however, on the grounds that the medical evidence failed to establish a causal relationship between his work activities and his diagnosed wrist and finger conditions. The Board finds that the medical evidence of record generally supports a causal relationship between appellant's work activities and his wrist and finger conditions.

Dr. Stephens opined that appellant's conditions were causally related to work activities. On December 16, 2008 he described appellant's symptoms relating to his bilateral CTS and his right index finger condition. Dr. Stephens stated that appellant had discomfort associated with his right index finger at A-1 pulley with decreased flexion. Noting that appellant's duties as a

[5] *Id*.

[6] *See Virginia Richard, claiming as executrix of the estate of Lionel F. Richard*, 53 ECAB 430 (2002); *see also Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

[7] *Phillip L. Barnes*, 55 ECAB 426 (2004); *see also Virginia Richard*, *supra* note 6; *Dorothy L. Sidwell*, 36 ECAB 699 (1985); *William J. Cantrell*, 34 ECAB 1233 (1993).

mail clerk included sorting mail, he reported on diagnostic test results, which revealed bilateral median neuropathies, right ulnar neuropathy and chronic neurogenic motor units in the C5-C6 nerve roots, indicating possible radiculopathy. On November 17, 2009 Dr. Stephens stated that he had treated appellant for a right index finger stenosing tenosynovitis and bilateral carpal tunnel syndrome and noted a possible right ulnar neuropathy at the elbow. During the course of appellant's work activities, he performed a significant amount of repetitive wrist flexion and extension activities that had been shown to be related to a median neuropathy and stenosing tenosynovitis. Dr. Stephen opined that appellant's work activities did, in fact, contribute to his ongoing conditions. Although his reports do not adequately explain how appellant's work activities caused or aggravated his carpal tunnel syndrome and right finger condition, they generally support causal relationship between his work duties and the diagnosed conditions.[8]

The Office found that Dr. Stephens' description of employment duties was inconsistent with those identified by appellant. Dr. Stephens noted that appellant used a pistol grip scanner during the course of his employment, which required up to 1,000 activities a night using his finger and his wrist. The Board finds that Dr. Stephens' November 17, 2009 report clarifies appellant's scanning activities, as delineated in his December 13, 2008 letter and is not inconsistent with appellant's description of the job duties that allegedly caused or contributed to his wrist and finger conditions.

On October 10, 2008 Dr. Truluck provided examination findings and reported radiological findings which revealed mild early degenerative changes of the right index MP joint and a tear of the right index MP joint. His impression was a right index radial collateral ligament injury. Dr. Vincent's December 11, 2008 electrodiagnostic test results indicated right ulnar neuropathy and some carpal tunnel syndrome. On September 9, 2008 Dr. McDermott found pain and redness around the MCP joint. As these reports do not provide any opinion on causal relationship, they are of limited probative value on that issue. They do, however, support that appellant was diagnosed with carpal tunnel syndrome and a torn ligament in his right index finger.

On remand the Office should prepare a statement of accepted facts which includes a description of appellant's job duties and the times he performed various tasks. Thereafter, it should develop the medical evidence as appropriate to obtain a rationalized opinion as to whether his right finger or other upper extremity conditions are causally related to factors of his employment.

CONCLUSION

The Board finds that this case is not in posture for decision as to whether appellant sustained an injury in the performance of duty.

[8] As noted, File No. xxxxxx129 was accepted for bilateral CTS. The Board notes that new work activities in which appellant engaged subsequent to his prior claim may constitute a claim for a new injury for aggravation of CTS.

ORDER

IT IS HEREBY ORDERED THAT the April 27, 2010 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development consistent with this decision.

Issued: March 2, 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