

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

J.W., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Arlington, VA, Employer**

)
)
)
)
)
)
)

**Docket No. 10-1657
Issued: March 15, 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 June 8, 2010 appellant filed a timely appeal from a February 17, 2010 merit decision of the Office of Workers' Compensation Programs denying his 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 sustained an injury while in the performance of duty causally related to his federal employment.

FACTUAL HISTORY

On January 6, 2010 appellant, then a 59-year-old city letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained bilateral carpal tunnel syndrome (CTS), elbow ligament damage and aggravated degenerative back disease due to factors of his federal employment. He noted that his right-sided CTS had been adjudicated under Office claim File No. xxxxxx314 and his left hand and elbow revealed similar conditions which required surgery. Appellant attributed his back condition to an increase in volume of large parcels for holiday

delivery. He first became aware of his conditions and that it was caused or aggravated by his employment on December 28, 2009, the day he stopped work.

A January 5, 2010 return to work note from a nurse practitioner diagnosed sciatica and degenerative disc disease. Appellant was found totally incapacitated until January 6, 2010.

In a November 10, 2009 report, Dr. Alex Croog, a Board-certified orthopedic surgeon, reported that appellant returned after an electrodiagnostic study. Appellant stated that he was still having symptoms on the right hand and noted symptoms on the left which were aggravated while “creating mail during his job.” Dr. Croog noted findings on physical examination and the results of diagnostic testing. An assessment of right CTS, left cubital tunnel syndrome and left CTS were provided. Dr. Croog noted that appellant would undergo surgery for right carpal tunnel release and left cubital tunnel nerve decompression at the same time.

By letter dated January 14, 2010, the Office advised appellant of the deficiencies in his claim and requested additional factual and medical information, including a comprehensive medial report from his physician which contained an opinion, with medical rationale, on the cause of his condition.

In a January 13, 2010 report, Dr. Croog advised that appellant had right CTS, left cubital tunnel syndrome and left CTS which were confirmed with electrodiagnostic study. He stated that appellant required four weeks off from work for surgery.

In reports dated December 25, 2009 and January 13, 2010, Dr. Ronald C. Childs, a Board-certified orthopedic surgeon, diagnosed sciatica and degenerative disc disease of the lumbar spine. He indicated that appellant was totally disabled as of December 28, 2009. Dr. Childs stated that appellant would be unable to work until he received two epidural injections. A copy of a December 31, 2009 magnetic resonance imaging (MRI) scan of the lumbar spine was also submitted.

By decision dated February 17, 2010, the Office denied appellant’s claim finding that he did not establish that he sustained an injury causally related to his accepted employment duties.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ 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 limitation, that an injury was sustained while 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.² These are the essential

¹ 5 U.S.C. §§ 8101-8193.

² *Anthony P. Silva*, 55 ECAB 179 (2003).

elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.³

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.⁴

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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 compensable employment factors. 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.⁵

ANALYSIS

The issue is whether appellant established that he sustained the claimed arm and back conditions as a result of his accepted employment duties. The Board finds that he did not provide sufficient medical evidence to meet his burden of proof.

In November 10, 2009 and January 13, 2010 reports, Dr. Croog advised that physical examination and diagnostic testing revealed findings of right CTS, left cubital tunnel syndrome and left CTS. He did not discuss the cause of appellant's conditions or address the relationship by which these conditions were due to his employment duties. These reports are of diminished probative value and insufficient to meet appellant's burden of proof.⁶ While Dr. Croog reported appellant's belief that his left hand symptoms were aggravated by his job duties, this does not constitute a rationalized medical opinion by Dr. Croog. Appellant's belief is insufficient to establish causation.⁷ Dr. Croog did not explain how any specific medical condition was caused or aggravated by particular employment factors.

³ See *Ellen L. Noble*, 55 ECAB 530 (2004).

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

⁵ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ See *J.F.*, 61 ECAB ____ (Docket No. 09-1061, issued November 17, 2009) (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).

⁷ Appellant's belief that the employment caused or aggravated his condition is insufficient to establish causal relationship. See *Joseph T. Gulla*, 36 ECAB 516 (1985).

Dr. Childs diagnosed sciatica and degenerative disc disease of the lumbar spine. He noted that appellant was totally disabled due to the conditions; however, Dr. Childs did not provide any opinion on causation. This reduces the probative value of his report.⁸

The remainder of the medical evidence, including an MRI scan of the lumbar spine, fail to address causal relationship between any diagnosed condition and appellant's employment duties. Appellant also submitted evidence from a nurse practitioner. However, this evidence is of no probative medical value as a nurse practitioner is not a physician as defined under the Act.⁹

The Board finds that the medical evidence of record provides a sufficiently rationalized medical opinion explaining the relationship between appellant's diagnosed medical conditions and his employment duties. Therefore, appellant did not meet his burden of proof.

CONCLUSION

The Board finds that appellant did not establish that he sustained an injury in the performance of duty causally related to factors of his federal employment.

⁸ See *supra* note 6.

⁹ See *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under the Act); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated February 17, 2010 is affirmed.

Issued: March 15, 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