

FACTUAL HISTORY

This case has previously been before the Board. On December 18, 2006 appellant, then a 25-year-old medical support assistant, filed an occupational disease claim alleging that he developed major depression with psychotic features due to factors of his federal employment. The Office denied this claim on July 24, 2008. On June 5, 2009 the Board reviewed appellant's allegations that his supervisor's actions caused or contributed to his claim, through a difficult relationship and the processing of his occupational disease claim and discrimination.² The Board found that he had not substantiated any allegations and denied the emotional condition claim. The Board also found that appellant's emotional condition was not due to his accepted right carpal tunnel syndrome. The January 29, 2007 report from Dr. Moses Ramos, a Board-certified psychiatrist, was not sufficient to meet appellant's burden of proof. The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference.

Following the Board's June 5, 2009 decision, appellant submitted a report dated October 1, 2009 from Dr. Ramos, who stated that appellant's clinical depression was precipitated and caused by his carpal tunnel syndrome and disability from work. Dr. Ramos stated, "This condition of carpal tunnel syndrome was his main precipitant, aggravated by job stressors related to his carpal tunnel syndrome. Although it is difficult to establish a causal relationship between this disorder and his depression there is a temporal relationship..." Dr. Ramos opined that the constant chronic pain from carpal tunnel syndrome as well as in a lack of rest resulted in a dramatic change in patience, behavior and personality. Appellant had a significant weight gain as well as chronic fatigue. Appellant, through his attorney, requested reconsideration on November 16, 2009.

The Office referred Dr. Ramos' report to the district medical adviser. On March 9, 2010 the district medical adviser stated that there was a distinction between a temporal and a causal relationship. He stated, "A temporal relation is one that occurs at the same time as another incident. A temporal relationship does not a causal relationship make. In my opinion, pain can be depressing, but carpal tunnel syndrome, in and of itself, does not cause a major depression with psychotic features."

The Office found a conflict in medical opinion between Dr. Ramos and the Office medical adviser. On March 25, 2010 it referred appellant to Dr. Andrew Brylowski, a Board-certified psychiatrist, to resolve the conflict of medical opinion. In an April 8, 2010 report, Dr. Brylowski reviewed psychiatric testing and set fourth findings on examination. He noted that appellant had a tendency toward exaggeration of current emotional problems as well as severe personality disorder. Dr. Brylowski diagnosed undifferentiated somatoform pain disorder. He advised that carpal tunnel syndrome could not cause a major depressive disorder with psychotic features. Dr. Brylowski found that pain complaints or the side effects of pain medication could not reasonably be supported as leading to appellant's major depressive disorder. He stated that appellant's objective neuropsychiatric measures were consistent with significant psychotic symptomatology or significant exaggeration of psychopathology and a significant personality disorder. Dr. Brylowski concluded, "In short, carpal tunnel syndrome in

² Docket No. 08-2273 (issued June 5, 2009).

general does not cause a major depressive disorder with psychotic features in this case, in reasonable medical probability, cannot cause major depressive disorder with psychotic features.”

By decision dated June 3, 2010, the Office reviewed the merits of appellant’s claim and denied modification of its prior decision.

LEGAL PRECEDENT

Under the Act,³ a claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition or disability for which he claims compensation was caused or adversely affected by employment factors.⁴ The general rule respecting consequential injuries is that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause, which is attributable to the employee’s own intentional conduct.⁵ The subsequent injury is compensable if it is the direct and natural result of a compensable primary injury.⁶

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s 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 factor identified by the claimant.⁷

When there are opposing reports of virtually equal weight and rationale, the case will be referred to an impartial medical specialist. Section 8123(a) of the Act provides that, if there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination and resolve the conflict of medical evidence.⁸ This is called a referee examination and the Office will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.⁹

³ *Supra* note 1.

⁴ *N.M.*, Docket No. 08-2081 (issued September 8, 2009); *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁵ *Albert F. Ranieri*, 55 ECAB 598 (2004).

⁶ *Id.* See *Carlos A. Marrero*, 50 ECAB 117 (1998).

⁷ *Michael S. Mina*, 57 ECAB 379 (2006).

⁸ 5 U.S.C. §§ 8101-8193, 8123; *M.S.*, 58 ECAB 328 (2007); *B.C.*, 58 ECAB 111 (2006).

⁹ *R.C.*, 58 ECAB 238 (2006).

The opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, will be given special weight.¹⁰

ANALYSIS

The Office accepted that appellant developed right carpal tunnel syndrome as a result of employment factors and he underwent surgery to correct this condition. Appellant contends that he developed a major depressive disorder with psychotic features as a consequence of his accepted right carpal tunnel syndrome

The Board has held that an emotional condition related to chronic pain and limitations resulting from an employment injury, maybe covered under the Act.¹¹ To establish his claim, appellant must submit rationalized medical evidence relating his claimed emotional condition to his accepted physical condition.¹² The Board finds that the medical evidence fails to establish his claim for an employment-related emotional condition.

Appellant's attending psychiatrist, Dr. Ramos, found that appellant's carpal tunnel syndrome caused or contributed to his diagnosed emotional condition. The Office medical adviser reviewed his report and disagreed with Dr. Ramos. The Office medical adviser stated that the temporal relationship between appellant's accepted physical condition and his depressive disorder was not sufficient to establish causal relationship. Due to this disagreement between a physician for the employee and a physician for the United States, the Office properly found a conflict of medical opinion evidence and referred appellant to Dr. Brylowski, a Board-certified psychiatrist, to resolve the conflict.

Dr. Brylowski examined appellant on April 8, 2010 and reviewed the results of mental state testing. He diagnosed undifferentiated somatoform pain disorder. Dr. Brylowski concluded that appellant's carpal tunnel syndrome did not cause a major depressive disorder with psychotic features. He advised that neither appellant's pain complaints or the side effects of medication could lead to appellant's major depressive disorder. Dr. Brylowski reported that appellant's test results were consistent with a significant personality disorder psychotic symptomatology and significant exaggeration of psychopathology.

The Board finds that Dr. Brylowski's report is entitled to the special weight of the medical evidence. Dr. Brylowski was properly selected by the Office as the impartial medical examiner and provided a comprehensive report with detailed test results. He opined that appellant's accepted condition of carpal tunnel syndrome did not cause or contribute to his current emotional condition which was the result of a significant personality disorder and psychotic symptomatology. As Dr. Brylowski provided an accurate history of injury, detailed findings on examination and offered a clear opinion negating a causal relationship between appellant's physical condition and his emotional condition, his report establishes that appellant's

¹⁰ *Nathan L. Harrell*, 41 ECAB 401-07 (1990).

¹¹ *N.M.*, *supra* note 4.

¹² *Charles D. Gregory*, 57 ECAB 322 (2006).

carpal tunnel syndrome or resulting medical treatment did not result in the alleged emotional condition.

CONCLUSION

The Board finds that appellant did not establish that he developed an emotional condition as a result of his accepted right carpal tunnel syndrome.

ORDER

IT IS HEREBY ORDERED THAT June 3, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 21, 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