United States Department of Labor
Employees' Compensation Appeals Board

D.W., Appellant	)	
and	)	**Docket No. 10-2225**
	)	**Issued: May 20, 2011**
U.S. POSTAL SERVICE, POST OFFICE, Louisville, KY, Employer	)	

Appearances:
Alan Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 1, 2010 appellant filed a timely appeal from a July 28, 2010 merit decision of the Office of Workers' Compensation Programs denying his occupational exposure claim. Pursuant to the Federal Employees' Compensation Act[1] 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 met his burden of proof to establish that he developed bilateral carpal tunnel syndrome (CTS) causally related to factors of his employment.

FACTUAL HISTORY

On November 5, 2009 appellant, then a 54-year-old postmaster, filed an occupational disease claim (Form CA-2) alleging that he developed bilateral CTS as a result of repetitive motions when working with mail. He first became aware of his condition and of its relationship

[1] 5 U.S.C. § 8101, *et seq.*

to his employment on November 20, 2008. The employing establishment received notice of appellant's injury on December 4, 2009 and reported that he had not missed any work due to his condition.

By letter dated December 10, 2009, the Office informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days. In a letter of the same date, the Office also requested additional factual information from the employing establishment.

In a December 8, 2008 neurology report, Dr. Cary Twyman, a Board-certified neurologist, stated that appellant complained of numbness in both hands and intermittent weakness and tingling in his right hand. She diagnosed moderate to advanced median neuropathy at the wrists bilaterally (bilateral CTS). In a March 10, 2009 medical report, Dr. Twyman reported that appellant complained of numbness and tingling in the arms and neck aggravated by repetitive activities and work duties.

By letter dated December 31, 2009, the employing establishment controverted the claim stating that appellant had been a postmaster since May 3, 2003 and would only case mail for short periods during the day and use computers intermittently for 30 to 45 minutes a day. It also noted that his prior position as a customer service supervisor did not require repetitive motion. Postmaster and customer service supervisor position descriptions were submitted.

In an undated narrative statement, appellant reported that constant use of a computer and manually sorting mail for 9 to 10 hours a day in his position as postmaster caused numbness in his hands and fingers.

By decision dated January 20, 2010, the Office denied appellant's claim finding that the evidence did not establish that the claimed medical condition was related to the established work-related events.

On February 8, 2010 appellant, through his attorney, requested a telephone hearing before an Office hearing representative.

In reports dated November 20, 2008 to January 8, 2009, Dr. Twyman stated that a magnetic resonance imaging (MRI) scan revealed multilevel bulging discs with moderate foraminal and central stenosis at C5-C6 and C6-C7. She noted that the electromyogram (EMG) nerve conduction velocity tests revealed evidence of bilateral mildly advanced carpal tunnel, right greater then left. Although the EMG did not show evidence of radiculopathy, Dr. Twyman could not rule out the possibility of double crush.

At the May 7, 2010 hearing, appellant testified that from 2003 to the present he had worked the postal window, sorted mail and used a computer at work which, he believed, caused his CTS. He also testified that he was diagnosed with diabetes in 2002 but that no physician had ever opined that his diabetes caused his CTS. Appellant's attorney informed the Office hearing representative that he would submit a report from appellant's physician addressing whether the diabetic condition caused the CTS and whether or not appellant's neck condition compressed his cervical nerve roots to cause the symptomology. The record was held open for 30 days.

In a May 18, 2010 medical report, Dr. Twyman reported that CTS can be associated with work conditions involving the repetitive use of the wrist and hand. She further explained that, within the small space in the wrist, there is a nerve surrounded by the ligaments that control the movements of the hand, fingers and wrists and that, with repetitive use, the ligaments swell causing pressure on the median nerve and the symptoms of carpal tunnel.

By letter dated June 4, 2010, the employing establishment again controverted appellant's claim and contended that his postal work did not require repetitive hand and wrist movements. In a June 10, 2010 narrative statement, appellant responded to the agency and provided witness statements which corroborated his repetitive work duties at the employing establishment.

In a June 22, 2010 medical report, Dr. Mark E. Einbecker, a Board-certified orthopedic surgeon, stated that he evaluated appellant for carpal tunnel symptoms. He opined that appellant's work activities probably did not cause his carpal tunnel symptoms considering that his age, history of diabetes and weight were also risk factors. Dr. Einbecker further stated that, although work activities could precipitate symptoms, there was nothing that would indicate this as a reason for development of CTS under appellant's work activities, noting that typing has been shown not to be a cause of CTS.

By decision dated July 28, 2010, the Office hearing representative affirmed the January 20, 2010 decision. The hearing representative found that the evidence established appellant's repetitive use of the upper extremities from intermittently using a computer keyboard, sorting mail and working at the postal window. However, the medical evidence was insufficient to establish that appellant's CTS was causally related to these factors of his federal employment.[2]

LEGAL PRECEDENT

An employee seeking benefits under the Act 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 or specific condition for which compensation is claimed is causally related to the employment injury.[3] These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.[4]

[2] The Board notes that appellant submitted additional evidence after the Office rendered its July 28, 2010 decision. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision and therefore this additional evidence cannot be considered on appeal. 20 C.F.R. § 10.510.2(c)(1); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). Appellant may submit this evidence to the Office, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

[3] *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

[4] *Michael E. Smith*, 50 ECAB 313 (1999).

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[5] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

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 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 employee.[6]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence.[7] Rationalized medical opinion evidence must be based on a complete factual and medical background of the employee 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. 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.[8]

ANALYSIS

The Office accepted that appellant engaged in repetitive work duties using his hands as a postmaster. It denied his claim on the grounds that the evidence failed to establish a causal relationship between those activities and his CTS. The Board finds that the medical evidence of record is insufficient to establish that appellant sustained bilateral CTS causally related to factors of his employment as a postmaster.

In medical reports dated November 20, 2008 to March 10, 2009, Dr. Twyman reported that appellant complained of numbness and tingling in the arms and neck and attributed these to repetitive activities and work duties. She summarized his MRI scan as revealing multilevel bulging discs with moderate foraminal and central stenosis at C5-C6 and C6-C7. Dr. Twyman also noted that the EMG nerve conduction velocity tests revealed evidence of bilateral mildly

[5] *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

[7] *D.U.*, Docket No. 10-144 (issued July 27, 2010).

[8] *James Mack*, 43 ECAB 321 (1991).

advanced carpal tunnel. In a May 18, 2010 medical report, she stated that CTS can be associated with work conditions involving the repetitive use of the wrist and hand, explaining that the swelling of ligaments in the hand causes pressure on the median nerve resulting in carpal tunnel symptomalogy.

The Board finds that the opinion of Dr. Twyman is not well rationalized. Dr. Twyman did not provide adequate detail about appellant's prior treatment and failed to explain how his work activities contributed to or caused his bilateral CTS. While she diagnosed his bilateral CTS, she did not sufficiently address its cause and did not mention his employment activities. Dr. Twyman's broad statement that CTS can be associated with work conditions involving the repetitive use of the wrist and hands does not support the conclusion that appellant's work conditions caused his CTS. The Board has held that 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.[9] Without medical reasoning explaining how appellant's employment factors caused the bilateral CTS, Dr. Twyman's report is insufficient to meet his burden of proof.[10]

In a June 22, 2010 medical report, Dr. Einbecker evaluated appellant for CTS and opined that his work activities did not cause his CTS symptoms when factors such as age, diabetes and weight were present. His medical report obviously did not support appellant's occupational injury claim because it suggested that his CTS was not related to appellant's employment factors.

Appellant alleged that his accepted duties as a postmaster caused his CTS. His statements however do not constitute the medical evidence necessary to establish causal relationship. In the instant case, the record is without rationalized medical evidence establishing a causal relationship between the accepted factors of employment and appellant's bilateral CTS. Thus, appellant has failed to meet his burden of proof.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that his bilateral CTS is causally related to factors of his employment as a postmaster.

[9] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[10] *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 20, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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