

Appellant initially thought the problem was a continuation of the symptoms from his two bilateral carpal tunnel surgeries, which OWCP accepted under claim number xxxxxx378, but then he realized that he sustained a new injury.² He returned to work for a few days in a limited-duty position as a lobby director in February 2010 and then stopped work entirely.

In support of his claim, appellant submitted a February 24, 2010 nerve conduction study and an April 13, 2010 report from Dr. Martin H. Rubin, a Board-certified internist, who indicated that appellant had intractable pain in both hands and fingers and was unable to work in any capacity.

In an April 27, 2010 letter, OWCP requested that appellant submit additional factual evidence describing the work duties he believed were responsible for his condition along with medical evidence from his physician which explained how the diagnosed condition was related to his employment. It noted that if his current symptoms and disability were related to the accepted conditions under claim number xxxxxx378, then he should pursue the medical issues under that claim. OWCP also advised appellant of the type of medical evidence needed to establish his claim.

In a May 2, 2010 report, Dr. Rubin took appellant off work pending his visit with Dr. Azmi Nasser, a Board-certified physiatrist.

By decision dated June 1, 2010, OWCP denied appellant's claim. It found that he did not identify any work factors he believed responsible for his condition and the medical evidence submitted did not support a causal relationship between the work injury and event.

On June 7, 2010 appellant, through his attorney, requested a telephonic hearing, which was held October 14, 2010. He testified that, following his bilateral carpal tunnel surgeries, he returned to work in February 2010 and worked one to two weeks checking locks on vehicles and sporadically working as a lobby director stocking shelves. Appellant indicated that the testing he underwent in February 2010 showed nerve damage to his hands. He submitted copies of diagnostic testing along with medical evidence.

In a September 21, 2009 report, Dr. Marcia Mastrin, a general practitioner, noted that appellant's hand pain began January 29, 2008 as a gradual onset due to his occupation and that he was status post bilateral carpal tunnel surgery from March and April 2009. She further noted that he has been off work for several months and the pain was worse with standing, lifting, work, activity with hands and rising from sitting position. Dr. Mastrin diagnosed carpal tunnel syndrome, paresthesia and medial epicondylitis.

In a March 23, 2010 report, Dr. Nasser noted that appellant was not working and the medications appeared to provide some relief. An assessment of carpal tunnel syndrome, paresthesia, medial epicondylitis and diabetic neuropathy was provided. In a May 17, 2010 report, Dr. Nasser diagnosed bilateral carpal tunnel syndrome, medial epicondylitis and diabetic neuropathy. He opined that "repetitive use may have aggravated nerve compression and

² Claim number xxxxxx378 is not before the Board in the present appeal. Under claim number xxxxxx378, appellant underwent multiple bilateral carpal tunnel surgeries, which OWCP authorized.

neuropathy.” In an April 6, 2010 report, Dr. Nasser reported appellant’s complaints of pain and that his activity had increased since last visit. An assessment of carpal tunnel syndrome, paresthesia, medial epicondylitis and diabetic neuropathy was provided. In a May 4, 2010 report, Dr. Nasser indicated that appellant’s pain was made worse by lifting, work, activity, rising from a seated position, driving, everything. He continued to diagnose carpal tunnel syndrome, paresthesia, medial epicondylitis and diabetic neuropathy.

Several reports from Dr. Rubin in July 2010 diagnosed diabetes, carpal tunnel syndrome and peripheral neuropathy.

In a November 15, 2010 letter, the employing establishment indicated that appellant worked modified duty since the acceptance of his prior claim with intermittent periods of disability and that he had been off work since August 3, 2009. Appellant was released to return to duty following his carpal tunnel surgeries on February 22, 2010. The employing establishment stated that he returned to work for one full day on February 23, 2010 in a very light minimally physical-duty assignment working as a lobby greeter, greeting customers and providing verbal guidance on mailing procedures. Appellant also stocked shelves on his own accord with the supplies that weighed no more than several pounds. The supplies consisted of rolls of tape, empty boxes and envelopes. The employing establishment denied that appellant performed vehicle checks, indicating that it was against his restrictions.

By decision dated December 27, 2010, an OWCP hearing representative affirmed the denial of appellant’s claim.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 FECA, 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.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

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;⁶ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁷ and (3) medical evidence establishing the

³ 5 U.S.C. § 8101 *et seq.*

⁴ *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *See Ellen L. Noble*, 55 ECAB 530 (2004).

⁶ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁷ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

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.⁸

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.⁹ The opinion of the physician must be based on a complete factual and medical background of the claimant,¹⁰ must be one of reasonable medical certainty¹¹ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹²

ANALYSIS

Appellant attributed the worsening of his bilateral carpal tunnel condition to the duties he performed after his release to work following his bilateral carpal tunnel surgeries. Although he stated that he worked for a few days, the evidence from the employing establishment reflects that he returned to work for one full day on February 23, 2010 in a very light minimally physical-duty assignment working as a lobby greeter and stocking supplies of light weight rolls of tape, empty boxes and envelopes. There is no indication that appellant performed vehicle checks or that he worked for more than one day. Thus, it is accepted that on February 23, 2010 appellant worked in a very light minimally physical-duty assignment as a lobby greeter and that he had stocked some light weight supplies. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

In the May 17, 2010 report, Dr. Nasser diagnosed bilateral carpal tunnel syndrome, medial epicondylitis and diabetic neuropathy. He opined that repetitive use may have aggravated median nerve compression and neuropathy. However, the full history of the claimed injury, including appellant's return to work in February 2010, was not addressed. The statement regarding causation is equivocal in nature and merely asserts that repetitive use may have aggravated his median nerve compression and neuropathy but does not specifically attribute his aggravation to specific work factors. The Board held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value.¹³ Dr. Nasser did not provide medical rationale explaining why appellant's duties of greeting and stocking light weight supplies for about one day would cause or aggravate the

⁸ *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁹ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹⁰ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

¹¹ *John W. Montoya*, 54 ECAB 306 (2003).

¹² *Judy C. Rogers*, 54 ECAB 693 (2003).

¹³ *See Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962).

diagnosed condition. Dr. Nasser's other reports provide no opinion on the cause of appellant's conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.¹⁴ Thus, Dr. Nasser's reports are insufficient to establish appellant's claim.

While Dr. Rubin notes the worsening of appellant's hand symptoms, he does not offer an opinion on the cause or aggravation of appellant's bilateral carpal tunnel syndrome condition. Thus, his reports are of diminished probative value.¹⁵ Appellant also submitted several diagnostic reports. However, such studies do not address causation and thus are of limited probative value. Dr. Mastrin's September 21, 2009 report predates the time appellant returned to work and thus does not address how his duties in February 2010 caused or aggravated a diagnosed medical condition.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.¹⁶ Causal relationship must be established by rationalized medical opinion evidence. OWCP advised appellant of the type of evidence required to establish his claim; however, he failed to submit such evidence establishing that the February 23, 2010 employment incident caused or aggravated the bilateral carpal tunnel conditions. Therefore, it properly denied his claim for compensation.

Appellant may submit new evidence or argument with a written request to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant failed to establish that he sustained nerve damage to both hands in the performance of duty.

¹⁴ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); see *Conard Hightower*, *supra* note 9.

¹⁵ *Id.*

¹⁶ *Victor J. Woodhams*, 41 ECAB 345 (1989).

ORDER

IT IS HEREBY ORDERED THAT the December 27, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 17, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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