

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

B.K., Appellant

and

**DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL
CENTER, Philadelphia, PA, Employer**

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**Docket No. 11-2129
Issued: June 11, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 21, 2011 appellant filed a timely appeal from decisions dated April 8 and July 15, 2011 of the Office of Workers' Compensation Programs' (OWCP) concerning the denial of her claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) 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 has established that she sustained an injury in the performance of duty on October 25, 2010.

FACTUAL HISTORY

On October 27, 2010 appellant, then a 57-year-old diagnostic radiologic technician, filed a traumatic injury claim alleging that on October 25, 2010 she injured her left wrist and forearm while moving emergency room patients on and off the G table.

¹ 5 U.S.C. § 8101 *et seq.*

In a December 8, 2010 attending physician's report, Dr. L. Scott Levin, a treating Board-certified orthopedic surgeon, diagnosed left wrist de Quervain's tendinitis by x-ray interpretation with an injury date of October 25, 2010. He checked "yes" to the question of whether the condition was employment related provided "heavy lifting" as the supporting rationale.

On December 8, 2010 Dr. Joshua Fosnot, an examining Board-certified surgeon, provided physical findings and a diagnosis of left wrist de Quervain's tendinitis. Under history of injury, he reported that appellant's injury was sustained at work approximately six weeks previously.

In progress notes dated December 29, 2010² and February 2, 2011, Dr. Levin conducted a physical examination and noted that appellant continued to be treated for left wrist pain and tendinitis. He diagnosed left wrist de Quervain's disease/tenosynovitis.

By correspondence dated March 3, 2011, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised as to the medical and factual evidence required to support her claim and given 30 days to provide this information.

On March 9, 2011 Dr. Levin reported that appellant continued to have treatment for her left wrist de Quervain's disease/tenosynovitis. He provided physical findings and indicated that she would be able to return to work on March 28, 2011.

By decision dated April 8, 2011, OWCP denied appellant's claim on the grounds that the medical evidence of record was insufficient to establish that the diagnosed medical condition was causally related to the October 25, 2010 employment injury.

Subsequent to the denial of appellant's claim, OWCP received a March 30, 2011 report from Dr. Levin, which indicated that she was capable of working provided that she had help with lifting. Dr. Levin reported that she was asymptomatic for her left wrist de Quervain's disease/tenosynovitis.

On April 14, 2011 appellant requested both reconsideration and review of the written record by an OWCP hearing representative.

In an April 14, 2011 report, Dr. Levin related that appellant was first seen on December 8, 2010 for a left wrist injury which was sustained as a result of moving patients on and off a radiology department table. A physical examination revealed a left wrist contusion, limited range of motion, slight nerve damage and persistent pain. Dr. Levin diagnosed left upper extremity tendinitis and de Quervain's disease. Lastly, he described the treatment provided appellant until her release to work on April 4, 2011.

By decision dated July 15, 2011, an OWCP hearing representative affirmed the denial of appellant's claim.

² An OWCP hearing representative mistakenly identified Dr. Fosnot as the author of this report instead of Dr. Levin.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of establishing the essential elements of his 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 determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.⁶ First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁷ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸

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 employment.⁹ An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹⁰

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹¹ 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.¹² The opinion of the physician must be based on a complete

³ *Supra* note 1.

⁴ C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁵ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

⁷ *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁸ *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

⁹ *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Katherine J. Friday*, 47 ECAB 591 (1996).

¹⁰ *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹¹ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

¹² *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

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.¹³

ANALYSIS

Appellant alleged that she sustained left wrist de Quervain's tendinitis on October 25, 2010 while moving patients on and off a table in the radiology department. OWCP found the evidence sufficient to establish that the incident occurred as alleged, but that the evidence of record was devoid of any medical evidence diagnosing a condition. The issue is whether appellant has established that she sustained left wrist de Quervain's tendinitis causally related to the October 25, 2010 employment incident. The Board finds that she has failed to meet her burden of proof.

The medical evidence submitted by appellant fails to provide a physician's opinion explaining how the diagnosed condition of left wrist de Quervain's tendinitis was caused by the accepted October 25, 2010 incident. In his December 8, 2010 report, Dr. Fosnot diagnosed left wrist de Quervain's tendinitis, which he attributed to an injury sustained at work approximately six weeks previously. His report contains an incomplete history of how the injury occurred as he merely noted that appellant sustained a work injury six weeks previously. As Dr. Fosnot's report is based on an incomplete history, it is of diminished probative values.¹⁴ He also failed to provide a medical opinion addressing the causal relationship between appellant's diagnosed left wrist de Quervain's tendinitis and the accepted incident. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.¹⁵ For the stated reasons, the Board finds that Dr. Fosnot's reports are insufficient to establish appellant's claim.

Appellant also submitted a December 8, 2010 attending physician's report, progress notes dated December 29, 2010 and February 2, March 9, 2011 and an April 14, 2011 report from Dr. Levin diagnosing left wrist de Quervain's tendinitis. The Board has held that medical form reports and narrative statements merely asserting causal relationship generally do not discharge a claimant's burden of proof.¹⁶ In none of the reports or progress notes had Dr. Levin provided any supporting rationale explaining how lifting patients on and off a table on October 25, 2010 would cause or aggravate the diagnosed condition of left wrist de Quervain's tendinitis. Thus, the reports and progress notes from his reports and progress notes are insufficient to establish appellant's claim.

OWCP advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Appellant did not provide a medical opinion that sufficiently described or explained how the October 25, 2010 employment-related event caused an injury.

¹³ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁴ *See L.G.*, Docket No. 09-1692 (issued August 11, 2010); *M.W.*, 57 ECAB 710 (2006); *Cecelia M. Corley*, 56 ECAB 662 (2005) (medical opinions based on an incomplete history are of diminished probative value).

¹⁵ *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁶ *Sedi L. Graham*, 57 ECAB 494 (2006).

As she has failed to submit any probative medical evidence establishing that she sustained an injury in the performance of duty, OWCP properly denied her claim for compensation.

Appellant may submit new evidence or argument with a written request for reconsideration 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 has failed to establish that her left wrist de Quervain's disease/tenosynovitis was causally related to the accepted October 25, 2010 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 15 and April 8, 2011 are affirmed.

Issued: June 11, 2012
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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