

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

D.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Kansas City, MO, Employer**

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**Docket No. 12-800
Issued: October 25, 2012**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 28, 2012 appellant filed a timely appeal of a January 30, 2012 merit decision of the Office of Workers' Compensation (OWCP) denying her claim for compensation. 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 the case.

ISSUE

The issue is whether appellant established that she sustained an injury to her left thumb causally related to factors of her federal employment.

FACTUAL HISTORY

On November 14, 2011 appellant, then a 44-year-old carrier technician, filed an occupational disease claim alleging injury to her left thumb after casing and carrying mail.

¹ 5 U.S.C. § 8101 *et seq.*

By letter dated November 17, 2011, OWCP sent appellant a questionnaire to complete and informed her that she must submit further evidence to support her claim, including medical evidence.

In an October 24, 2011 progress note, Dr. Keith Hodge, a treating Board-certified surgeon, stated that he had seen appellant for several hand problems in the past. He treated her that day for a left trigger thumb which had been bothering her since June 2011. On examination, appellant had pain at the base of her thumb over the A1 pulley which was exacerbated by a tendon flexion of the interphalangeal joint. Dr. Hodge also noted edema.

By decision dated January 30, 2012, OWCP denied appellant's claim finding that she did not establish that the work exposure occurred as described. It found that the note from Dr. Hodge did not describe appellant's employment duties or relate her trigger thumb condition to her work.

LEGAL PRECEDENT

An employee seeking compensation under FECA² has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence,³ including that she is an "employee" within the meaning of FECA⁴ and that she filed her claim within the applicable time limitation.⁵ The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.⁶ 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.⁷

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.⁸

² 5 U.S.C. §§ 8101-8193.

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁴ *See M.H.*, 59 ECAB 461 (2008); *see* 5 U.S.C. § 8101(1).

⁵ *R.C.*, 59 ECAB 427 (2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954); *see* 5 U.S.C. § 8122.

⁶ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁸ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

Causal relationship is a medical issue⁹ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. 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 certainty,¹¹ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.¹²

ANALYSIS

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury to her left thumb causally related to her federal employment. Appellant submitted a brief statement on her claim form that her left thumb was injured as a result of casing and carrying mail is not sufficiently detailed to establish that the specific employment incidents occurred as alleged. She did not submit medical evidence that established that the duties of her federal employment caused an injury. Dr. Hodge never noted any causal relationship between appellant's left thumb condition and the duties of her federal employment.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that her condition was caused by her employment is sufficient to establish causal relationship.¹³

On appeal, appellant submitted new evidence in support of her claim. The Board, however, cannot consider this new evidence on appeal because its jurisdiction is limited to the evidence that was before OWCP at the time it issued its final decision.¹⁴

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 and 10.607.

CONCLUSION

The Board finds that appellant has not established that she sustained an injury to her left thumb causally related to factors of her federal employment.

⁹ *Mary J. Briggs*, 37 ECAB 578 (1986).

¹⁰ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

¹¹ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

¹² *See William E. Enright*, 31 ECAB 426, 430 (1980).

¹³ *Walter D. Morehead*, 31 ECAB 188 (1986).

¹⁴ *See* 5 U.S.C. § 501.2(c)(1).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 30, 2012 is affirmed.

Issued: October 25, 2012
Washington, DC

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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

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