

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

_____)	
J.E., Appellant)	
)	
and)	Docket No. 12-838
)	Issued: September 6, 2012
U.S. POSTAL SERVICE, POST OFFICE, Pendleton, SC, Employer)	
_____)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 2, 2012 appellant filed a timely appeal from a December 22, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On June 17, 2011 appellant, then a 46-year-old rural letter carrier, filed an occupational disease claim alleging that she sustained left trigger thumb due to repetitive gripping on the job. She became aware of her condition and its relationship to her federal employment on June 8, 2011. A May 11, 2011 report from Dr. Amir M.I. Agha, an internist and Board-certified

¹ 5 U.S.C. § 8101 *et seq.*

rheumatologist, noted degenerative carpometacarpal joint changes and diagnosed Sjögren's syndrome.²

OWCP informed appellant in a June 27, 2011 letter that additional evidence was needed to establish her claim. It gave her 30 days to submit a factual statement detailing her job duties and a report from a qualified physician explaining how a diagnosed condition resulted from such work activity.

In a June 28, 2011 report, Dr. Timothy Y. Dew, a Board-certified orthopedic surgeon, related that appellant experienced left thumb pain, catching and locking since June 7, 2011. On examination, he observed first annular pulley tenderness and limited extension on account of pain. X-rays did not show signs of carpometacarpal arthritis.³ Dr. Dew diagnosed left trigger thumb, explaining that inflammation occurred where the flexor tendon entered the sheath. In a July 5, 2011 follow-up report, he opined, "I do believe that if [appellant's] job consists of eight hours a day of sorting, placing and pulling mail with repetitive use that this could cause or aggravate her trigger thumb."

Appellant remarked in a July 5, 2011 statement that she worked eight-hour shifts for the employing establishment six times a week. Her job duties, which included sorting letters, flats and parcels, loading trays in her postal vehicle, driving and delivering mail, entailed repetitive gripping motions for extended periods. As a result, appellant's thumb developed various symptoms, including popping, locking and stiffness.

By decision dated August 4, 2011, OWCP denied appellant's claim, finding the medical evidence insufficient to establish that the accepted work factors caused or contributed to a left thumb injury.

Appellant requested a review of the written record on August 31, 2011. She furnished a Form WH-380-E "Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)" signed by Dr. Dew on August 26, 2011. Dr. Dew stated that appellant's job functions involved casing, sorting and delivering six days a week and that she was unable to use her left hand.

On December 22, 2011 OWCP's hearing representative affirmed the August 4, 2011 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 timely filed within the applicable time limitation period, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions for which compensation is claimed are causally related to

² The case record also contains an illegible June 18, 2011 note from Dr. Agha.

³ Dr. Dew pointed out that previous blood test results were negative for lupus or rheumatoid arthritis.

the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁶ To establish fact of injury in an occupational disease claim, 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.⁷

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is 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, 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 claimant.⁸

ANALYSIS

The case record supports that appellant sorted letters, flats and parcels, loaded trays in her postal vehicle, drove and delivered mail. Dr. Dew diagnosed left trigger thumb. The Board finds, nonetheless, that appellant did not establish her occupational disease claim because the medical evidence failed to demonstrate that the diagnosed condition resulted from the accepted work factors.

In a June 28, 2011 report, Dr. Dew advised that appellant experienced left thumb symptoms since June 7, 2011. After he conducted a physical examination and reviewed x-rays, he diagnosed left trigger thumb. In a subsequent July 5, 2011 report, Dr. Dew attributed the condition to appellant's federal employment, specifying that "if her job consists of eight hours a day of sorting, placing and pulling mail with repetitive use that this could cause or aggravate her trigger thumb." His opinion, however, failed to pathophysiologically explain how her duties caused or contributed to left trigger thumb.⁹ In addition, Dr. Dew used speculative terms to qualify his support of causal relationship.¹⁰ He did not unequivocally explain how specific job duties caused or aggravated a diagnosed medical condition.

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *See S.P.*, 59 ECAB 184, 188 (2007).

⁷ *See R.R.*, Docket No. 08-2010 (issued April 3, 2009); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005).

⁸ *I.J.*, 59 ECAB 408 (2008); *Woodhams*, *supra* note 5.

⁹ *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

¹⁰ *Kathy A. Kelley*, 55 ECAB 206 (2004); *Thomas A. Faber*, 50 ECAB 566 (1999) (the use of speculative terms diminishes the probative value of medical opinion evidence).

The remaining evidence, namely Dr. Agha's May 11, 2011 report and Dr. Dew's August 31, 2011 medical leave form, were of diminished probative value on the issue of causal relationship because no opinion was offered on the matter.¹¹ In the absence of rationalized medical opinion evidence, appellant did not meet her burden of proof.

Appellant contends on appeal that Dr. Dew's report sufficiently established causal relationship. The Board has already addressed the deficiencies of the medical evidence. Appellant may submit new evidence or argument as part of a formal 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 did not establish that she sustained an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the December 22, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 6, 2012
Washington, DC

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

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

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

¹¹ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).