United States Department of Labor
Employees' Compensation Appeals Board

S.J., Appellant	)	
and	)	**Docket No. 13-781**
	)	**Issued: December 5, 2013**
U.S. POSTAL SERVICE, PROCESSING & DISTRUBTION CENTER, Tulsa, OK, 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
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

JURISDICTION

On February 19, 2013 appellant filed a timely appeal of a November 28, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant has met her burden of proof to establish an occupational disease due to factors of her federal employment.

FACTUAL HISTORY

On January 27, 2012 appellant, then a 41-year-old mail handler, filed an occupational disease claim alleging that she developed a condition on March 1, 2011, which she related to her federal employment on that date. In an accompanying narrative statement, she described her

[1] 5 U.S.C. § 8101 *et seq.*

work at the employing establishment beginning on January 30, 1998 as a mail handler. Appellant stated that in August 1999 she sustained a right wrist injury which was accepted. She also sustained a rotator cuff injury and back surgery but continued to work full time. In her current position, appellant moves equipment and has to bend and squat to attach the equipment. She stated that driving the tow mule caused pain in her wrist. Appellant noted that she also drove a forklift which moved boxes of trays to the mule. She noted that she had problems with her back, arms, neck and wrist. Appellant stated that she could not sleep due to pain in her arms and that she could not close her hands in the morning and that her hands, especially the right, were numb.

In reports dated November 15 and 22 and December 13, 2011 and January 24, 2012, Dr. Mark Stephen Wilson, an orthopedic surgeon, examined appellant due to injuries to her cervical spine, thoracic spine, both shoulder and both hands and wrists that she sustained as a result of cumulative trauma from work activities. He listed her work-related duties of driving a forklift, bending and pulling of equipment weighting up to 3,000 pounds, bending and pulling. Dr. Wilson also noted appellant's previous work-related injuries and performed a physical examination. He stated, "Due to the repetitive nature of [appellant's] job, she began to have pain in her cervical spine and her bilateral upper extremities with her duties at work." Dr. Wilson diagnosed cervical spine sprain/strain, cervical radiculopathy, thoracic sprain/strain, bilateral shoulder impingement and bursitis, bilateral elbow lateral epicondylitis, bilateral carpal tunnel syndrome, bilateral thumb arthritis and right second and third digit trigger fingers all of which he attributed to cumulative trauma.

In a letter dated March 22, 2012, OWCP requested additional factual and medical information from appellant in support of her claim. It allowed 30 days for a response.

Appellant submitted additional medical evidence. Dr. Don R. Barney, an osteopath, examined her on March 4 and 19, 2010 noting that she attributed her left wrist condition at that time to turning the wheel while driving a forklift or mule in the performance of her job duties. He diagnosed carpal tunnel syndrome and tenosynovitis of the left wrist.

On January 24, 2012 Dr. Aletha C. Oglesby, a Board-certified family practitioner, examined appellant due to back pain. She had previously treated appellant on January 11, February 7, May 9 and 20, 2011 and February 9 and 28, 2012 and found appellant's pain to be stable, but increased when she worked overtime. Dr. Oglesby diagnosed unspecified disc disorder of the lumbar region.

On April 29, 2011 Dr. Sreelatha K. Krishna, a Board-certified internist, stated that appellant had an onset of back pain two weeks earlier. Appellant reported sharp pain while bending and performing the activities of daily living. Dr. Randall L. Hendricks, a Board-certified orthopedic surgeon, examined her on May 18, 2011 and stated that she had a solid fusion at L5-S1 with minimal spondylosis at L3-5 based on magnetic resonance imaging (MRI) scan.

In a letter dated April 10, 2012, OWCP requested that appellant resubmit her narrative statement as it was illegible. It allowed 30 days for a response.

Appellant underwent a cervical MRI scan on March 6, 2012. This report demonstrated a small central disc protrusion at C4-5 and central canal stenosis with disc extrusion at C5-6 as well as central canal stenosis with broad based central disc protrusion at C6-7.

In a report dated March 28, 2012, Dr. Hendricks stated that appellant reported neck pain, headaches and pain radiating down her right arm into her hand. He reviewed the MRI scan of her cervical spine, which demonstrated C6-7 disc herniation and a smaller C6-7 disc protrusion. Dr. Hendricks recommended an epidural steroid injection.

Appellant resubmitted a portion of her narrative statement, which described her work duties of moving equipment full of mail by pushing, pulling, hooking equipment, bending squatting and driving a tow mule. She listed her work injuries including a wrist injury in 1999, 2003 rotator cuff surgery, 2005 back surgery and 2008 hardware removal surgery on her back. In a narrative statement dated May 4, 2012, appellant provided her work duties as a mail handler in the processing and distribution plant. She stated that OWCP accepted her claim for right carpal tunnel syndrome in 1999. Appellant injured her back in November 2000 and had surgery and hardware removal. She injured her right shoulder on January 24, 2003 which resulted in accepted rotator cuff surgery.

By decision dated June 29, 2012, OWCP denied appellant's claim finding that, although she had submitted a narrative statement, she did not specify the claimed condition resulting from her employment duties. Appellant requested a review of the written record by an OWCP hearing representative on July 13, 2012.

On March 6, 2012 Dr. Darnell Blackmon, a Board-certified orthopedic surgeon, examined appellant due to bilateral upper extremity pain. He noted that she performed heavy lifting at the employing establishment and had developed neck pain as well as bilateral hand pain while she was at work. Dr. Blackmon found that Spurling's test produced symptoms that radiated into appellant's right upper extremity with patchy paresthesias in both upper extremities. Appellant also had a bilateral positive Durkan's compression test, positive Tinel's sign and positive Phalen's test. Dr. Blackmon found no atrophy of her hands. He diagnosed cervical radiculopathy and bilateral carpal tunnel syndrome.

On March 15, 2012 Dr. Yogesh Mittal, a Board-certified orthopedic surgeon, diagnosed bilateral neck pain and bilateral carpal tunnel syndrome. He noted that appellant's electromyography (EMG) showed bilateral carpal tunnel syndrome with no electrodiagnostic evidence of right or left medial nerve entrapments and no brachial plexus or cervical radiculopathy.

In a report dated April 11, 2012, Dr. Hendricks diagnosed cervical radiculopathy and provided a cervical epidural steroid injection. He reviewed appellant's EMG on April 25, 2012 and stated that she did not have any hard identifiable radiculopathy. Dr. Hendricks stated that the EMG tended to suggest that she had carpal tunnel but no cervical radiculitis. In a note dated May 25, 2012, he stated that the cervical epidural eased appellant's pain for 12 days and that she reported intermittent right arm pain. Dr. Hendricks recommended a second cervical epidural. He examined appellant on June 22, 2012 and stated that her cervical epidural injections did not

reduce her cervical pain. Dr. Hendricks stated that she complained of severe neck pain with radiation into her arm. He recommended an anterior cervical discectomy and fusion.

In a note dated March 4, 2010, Dr. Barney noted that appellant was a mail handler and equipment operator driving a mule and forklift, which required use of her wrist. He found tenderness to the right wrist and pain with flexion and extension. Dr. Barney stated that appellant had positive Tinel's sign and Phalen's test. He diagnosed carpal tunnel syndrome of the right wrist. Dr. Barney stated:

> "In my medical opinion the injuries described above and the results of the physician exam[ination] as revealed above are due to [appellant's] job as a mail handler at the [employing establishment] distribution plant. The job of operating the mule, operating the forklift has caused her to put extreme pressure on her left wrist due to having pain in the right wrist and right shoulder. This pain had now caused the carpal tunnel strap to be painful and has resulted in carpal tunnel syndrome."

By decision dated November 28, 2012, the hearing representative noted that appellant claimed injury on March 1, 2011. Appellant had two prior work-related injuries a traumatic work injury on November 1, 2000 accepted for lumbar strain, degenerative disc disease and lumbar surgery. On November 12, 2002 she filed a claim for right shoulder strain, which OWCP accepted for right rotator cuff strain and surgical repair. Appellant received a schedule award for four percent impairment of the right upper extremity. The hearing representative denied her current claim on the grounds that she did not state which conditions she was claiming or specifically identify the work duties she believed caused her conditions. The hearing representative stated that since no factors of employment in the performance of duty had been established the medical evidence would not be discussed.

LEGAL PRECEDENT

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."[2] 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 claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.[3] A medical report is of limited probative value on a given

[2] 20 C.F.R. § 10.5(q).

[3] *Lourdes Harris*, 45 ECAB 545, 547 (1994).

medical question if it is unsupported by medical rationale.[4] Medical rationale includes a physician's detailed opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, must be one of reasonable medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and specific employment activity or factors identified by the claimant.[5]

ANALYSIS

Appellant stated that she developed injuries to her back, arms, neck and right wrist due to her employment duties. She has submitted medical reports from several physicians providing specific diagnoses of conditions in her implicated body parts. Dr. Wilson diagnosed cervical spine sprain/strain, cervical radiculopathy, thoracic sprain/strain, bilateral shoulder impingement and bursitis, bilateral elbow lateral epicondylitis, bilateral carpal tunnel syndrome, bilateral thumb arthritis and right second and third digit trigger fingers. Dr. Barney diagnosed carpal tunnel syndrome and tenosynovitis of the left wrist as well as carpal tunnel syndrome of the right wrist. Dr. Oglesby diagnosed unspecified disc disorder of the lumbar region. Dr. Hendricks diagnosed C6-7 disc herniation and a smaller C6-7 disc protrusion based on a cervical MRI scan with cervical radiculopathy. Dr. Blackmon diagnosed cervical radiculopathy and bilateral carpal tunnel syndrome. The Board finds that appellant has provided the initial medical evidence necessary to establish the existence of diseases or conditions of her back, arms, neck and right wrist as alleged.

Appellant also identified specific employment duties, which she felt caused or contributed to her diagnosed conditions including moving equipment, bending and squatting to attach the equipment, driving a forklift to move boxes of trays to the mule as well as driving a tow mule.

However, only two of the medical reports submitted discuss the causal relationship between appellant's diagnosed conditions and her employment duties. In support of a causal relationship between her implicated employment duties and her diagnosed conditions, appellant submitted Dr. Wilson's November 15, 2011 report listing her work-related duties of driving a forklift, bending and pulling of equipment weighting up to 3,000 pounds. Dr. Wilson stated, "Due to the repetitive nature of [appellant's] job, she began to have pain in her cervical spine and her bilateral upper extremities with her duties at work." He diagnosed cervical spine sprain/strain, cervical radiculopathy, thoracic sprain/strain, bilateral shoulder impingement and bursitis, bilateral elbow lateral epicondylitis, bilateral carpal tunnel syndrome, bilateral thumb arthritis and right second and third digit trigger fingers.

Dr. Wilson provided a proper factual background, noting appellant's work duties and provided diagnoses of her back, neck and arm conditions. In support of his opinion that her diagnosed conditions were due to her employment, he opined that the repetitive nature of her job

[4] *T.F.*, 58 ECAB 128 (2006).

[5] *A.D.*, 58 ECAB 149 (2006).

caused her pain. While Dr. Wilson's report includes an opinion on the causal relationship between appellant's diagnosed condition and her employment duties, he failed to provide the necessary medical rationale to explain how her duties of driving a forklift as well as bending and pulling equipment resulted in the diagnosed conditions. As he did not provide any medical reasoning, his reports are not sufficient to meet her burden of proof in establishing her occupational disease claim.

Dr. Barney stated that appellant attributed her left wrist condition to driving a forklift or mule in the performance of her job duties. He diagnosed bilateral carpal tunnel syndrome based on a physical examination including positive Tinel's sign and Phalen's test. Dr. Barney stated:

> "In my medical opinion the injuries described above and the results of the physician exam[ination] as revealed above are due to [appellant's] job as a mail handler at the [employing establishment] distribution plant. The job of operating the mule, operating the forklift has caused her to put extreme pressure on her left wrist due to having pain in the right wrist and right shoulder. This pain had now caused the carpal tunnel strap to be painful and has resulted in carpal tunnel syndrome."

Dr. Barney provided an opinion that there was a causal relationship between appellant's work duties including driving tow mules and forklifts. While he offered some medical reasoning, he did not explain how the repeated trauma from appellant's employment activities resulted in her diagnosed carpal tunnel syndrome. Dr. Barney did not explain the process by which her duties would cause or contribute to her diagnosed carpal tunnel syndrome. Due to the lack of detailed medical reasoning, his report is insufficient to meet appellant's burden of proof in establishing carpal tunnel syndrome.

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 established diagnosed conditions and implicated work factors as causing or contributing to her medical conditions. However, the Board finds that she failed to submit the necessary medical opinion evidence to establish a causal relationship between her diagnosed medical conditions and her job duties.

ORDER

IT IS HEREBY ORDERED THAT the November 28, 2012 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: December 5, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board