

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

C.T., Appellant)	
)	
and)	Docket No. 13-1651
)	Issued: December 19, 2013
DEPARTMENT OF DEFENSE, DEFENSE)	
LOGISTICS AGENCY, Fort Belvoir, VA,)	
Employer)	
)	

<i>Appearances:</i>	<i>Case Submitted on the Record</i>
<i>Alan J. Shapiro, Esq., for the appellant</i>	
<i>Office of Solicitor, for the Director</i>	

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 1, 2013 appellant, through her attorney, filed a timely appeal from a May 24, 2013 merit decision of an Office of Workers' Compensation Programs' (OWCP) hearing representative who denied her occupational disease 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's bilateral carpal tunnel syndrome is causally related to factors of her employment.

FACTUAL HISTORY

On September 11, 2012 appellant, then a 61-year-old supervisor financial systems analyst, filed an occupational disease claim alleging bilateral carpal tunnel syndrome and

¹ 5 U.S.C. § 8101 *et seq.*

recurring tendinitis as a result of daily computer use during her 30-year government career. She first became aware of her condition and realized that it resulted from her employment on July 1, 2011. Appellant retired from federal service on November 1, 2011.

By letter dated October 18, 2012, OWCP advised appellant that no evidence was received to support her occupational disease claim. It requested that she describe the employment duties she performed and submit medical evidence that she sustained a diagnosed condition as a result of the factors of her employment.

In an undated statement appellant reported that she spent from 80 to 90 percent of the workday on the computer and keyboard preparing e-mails, spreadsheets and other word documents. She also filed, copied and faxed documents throughout her workweek. Appellant had worked multiple jobs during the course of her 30 years in the Federal Government that required typing 8 hours a day, 5 days a week. She related that her last assignment had a wooden desk and an adjustable chair but no regular adjustable arm on which to place the keyboard. Appellant also had a filing cabinet that was somewhat lower than her desk that she used multiple times daily. She attributed her condition to her work as she experienced pain in her wrists and fingers intermittently during the two to three years prior to her retirement. Appellant clarified that she did not have any other employment since she retired or other injuries or similar symptoms. Her hobbies included occasional painting and volunteering three hours a week at a senior center when she was able. Appellant also provided a description of duties of a finance site process management lead.

In a decision dated November 30, 2012, OWCP denied appellant's claim. It accepted that she performed the job duties as described but denied the claim finding that there was no medical evidence submitted to establish that her claimed condition was caused by the factors of her employment.

On December 5, 2012 appellant, through her attorney, requested a telephone hearing, which was held on March 14, 2013. Counsel noted that an electromyography report demonstrated a positive diagnosis of carpal tunnel syndrome and that Dr. Andy Lee, a Board-certified family practitioner, was to provide a report regarding causal relationship. Appellant explained that she began to have symptoms of carpal tunnel syndrome, which included numbness and tingling in her fingers and pain and weakness in her wrists two to three years prior to her retirement. The symptoms started intermittently but worsened and became more frequent over time. Appellant again described the duties she performed on the computer.

In a January 16, 2012 report, Dr. Lee, related appellant's complaint of pain in the wrists and thumbs for the past three months on the left side and three weeks on the right side. He reviewed appellant's employment history and conducted an examination. Dr. Lee observed pain in the fingers elicited by motion but no tenderness on palpation or subluxation of the extensor tendon. Examination of the hands revealed tenderness on palpation over dorsum of the right and left thumb. No muscle spasm of the hand, pain elicited by motion or weakness of the hands were noted. Examination of the wrists did not reveal any tenderness on palpation of the wrist, muscle spasm, pain elicited by motion or instability. Phalen's maneuver showed hand numbness and tingling in the median nerve distribution of both wrists. Tinel's sign of the median nerve was positive. Dr. Lee diagnosed de Quervain's tenosynovitis of the right and left wrist and carpal tunnel syndrome.

In a June 4, 2012 report, Dr. Lee addressed appellant's complaints of left wrist weakness and left shoulder and neck pain. Upon examination of the fingers, he observed tenderness on palpation of the thumb and normal motion of the fingers. Examination of the hands revealed normal appearance and no tenderness on palpation, pain, weakness or muscle spasm. Dr. Lee again diagnosed de Quervain's tenosynovitis of the left wrist.

In a June 19, 2012 electrodiagnostic examination of the cervical spine, Dr. Donald Miller, a diagnostic radiologist, observed normal cervical vertebral body heights and alignments with no paravertebral swelling. He found slight generalized osteoporosis for the disc space minimally narrowed at C5-6 and mild facet arthropathy in the mild cervical spine region. Dr. Miller diagnosed degenerative changes in the mid and lower cervical spine region with osteoporosis.

In a July 9, 2012 nerve conduction study (NCV) report, Dr. Christopher D. Cannell, Board-certified in physical medicine and rehabilitation, observed median nerve delay at both wrists, right greater than left in severity. Ulnar conduction studies and electromyography needle studies of both upper limbs and cervical region were normal. Dr. Cannell diagnosed mild to moderate right carpal tunnel syndrome and mild left carpal tunnel syndrome with no evidence on either side for ulnar neuropathy, brachial plexus disorder or cervical radiculopathy. He also suspected left wrist tendinitis.

By decision dated May 24, 2013, an OWCP hearing representative affirmed the November 30, 2012 decision denying appellant's claim. She found insufficient medical evidence to establish appellant's upper extremity condition was causally related to factors of her employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence² including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.³ In an occupational disease claim, appellant's burden requires submission of the following: (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.⁴

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁵ The opinion of the

² *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁵ *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

physician must be based on a complete 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.⁶

ANALYSIS

Appellant alleged that she developed bilateral carpal tunnel syndrome and recurring tendinitis as a result of spending eight hours a day on the computer preparing e-mails, spreadsheets and various other documents. She first became aware of her condition and realized it resulted from her employment on July 1, 2011. Appellant retired from federal service on November 1, 2011. OWCP accepted that appellant performed the work duties as alleged but denied her occupational disease claim finding that insufficient medical evidence was submitted to establish that she sustained a diagnosed condition as a result of those employment factors.

Appellant submitted January 16 and June 4, 2012 reports from Dr. Lee, who related her complaints of pain in her wrists and thumbs and reviewed her history. Dr. Lee conducted an examination and observed tenderness on palpation over the dorsum of the right and left thumb of her hands. Phalen's maneuver also demonstrated hand numbness and tingling in the median nerve distribution of both wrists. Tinel's sign was also positive. Dr. Lee diagnosed de Quervain's tenosynovitis of the right and left wrist and carpal tunnel syndrome. Although OWCP found insufficient evidence to establish a firm medical diagnosis of appellant's condition, the Board finds that the medical evidence of record establishes a diagnosis of bilateral carpal tunnel syndrome and de Quervain's of the bilateral wrists. The diagnosis was also established by Dr. Cannell's July 9, 2012 NCV report where he diagnosed mild to moderate right carpal tunnel syndrome and mild left carpal tunnel syndrome based on the diagnostic findings. The Board also finds that although both physicians provided a firm medical diagnosis neither physician provided an opinion on the cause of appellant's diagnosed condition. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁷ Neither, Dr. Lee nor Dr. Cannell described appellant's work duties nor opined on whether the factors of her employment caused or contributed to her bilateral wrist conditions. Thus, their reports are of limited probative value and are insufficient to establish appellant's claim.

Appellant also submitted a June 19, 2012 diagnostic examination of her cervical spine from Dr. Miller. The Board also finds that this report is insufficient to establish her claim because it does not provide any diagnosis of her bilateral wrist condition nor opinion on causal relationship.

On appeal, appellant's counsel alleged that the decision was contrary to fact and law. As previously stated, however, appellant has the burden of proof to provide medical evidence establishing that her diagnosed conditions were causally related to factors of her employment.⁸

⁶ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

⁷ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

⁸ *Supra* note 4.

No such probative medical evidence was submitted in this case. Thus, the Board finds that OWCP properly determined that appellant's claim should be denied.

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 failed to meet her burden of proof to establish that her bilateral wrist condition was causally related to factors of her employment.

ORDER

IT IS HEREBY ORDERED THAT the May 24, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 19, 2013
Washington, DC

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

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

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