

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

---

A.D., Appellant

and

U.S. POSTAL SERVICE, SNAPPER CREEK  
BRANCH, Miami, FL, Employer

---

)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 14-20  
Issued: April 10, 2014**

*Appearances:*

*Capp P. Taylor, Esq.*, for the appellant  
*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 October 7, 2013 appellant, through his attorney, filed a timely appeal from the May 17, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 met his burden of proof to establish several occupational diseases in the performance of duty, including those affecting his back, knees, feet, left elbow and right wrist.

**FACTUAL HISTORY**

On April 28, 2009 appellant, then a 37-year-old mail processing clerk, filed an occupational disease claim alleging that, due to his employment duties of prolonged standing,

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

walking, bending, reaching and lifting up to 70 pounds, he developed bulging back discs, torn menisci of both knees, radial tunnel syndrome of his left elbow, spurs on both heels, plantar fasciitis and scapholunate ligament tear of his right wrist. He stated that he first became aware of these conditions on April 7, 2008 and that he first attributed the conditions to his employment on the same date. Appellant stopped work on April 4, 2008.

In an undated statement, appellant attributed his wrist condition to lifting heavy tubs of mail, pushing heavy equipment, scanning mail, lifting and carrying heavy parcels up to 70 pounds and pulling and pushing equipment. He asserted that his knee condition was due to squatting, lifting, pushing, pulling, standing and walking and noted that he had surgeries on his knees in 2006. Appellant claimed that his plantar fasciitis was due to walking with heavy parcels and tubs full of mail as well as pushing and pulling heavy equipment. He developed left radial tunnel syndrome due to extensive casing of mail, repetitive grasping of mail, repetitive keying and grabbing mail and trays. With respect to his back condition, appellant stated that he experienced continuous pain in the middle and lower back which he attributed to pushing and pulling equipment and lifting tubs, trays and sacks of mail.

In a May 13, 2009 letter, OWCP requested that appellant submit additional factual and medical evidence in support of his claim.

Appellant submitted an October 20, 1999 note in which Dr. Stephen E. Blythe, an attending Board-certified orthopedic surgeon, diagnosed left radial tunnel syndrome and indicated that he could perform light-duty work. On January 17, 2002 Dr. Mark E. Kutner, an attending Board-certified pulmonologist, diagnosed acute low back pain and recommended light duty and on May 25, 2002 he diagnosed history of low back pain with bulging disc. In a note dated April 1, 2009, Dr. Elizabeth A. Ouellette, an attending Board-certified hand surgeon, diagnosed right wrist arthritis and noted that appellant underwent right wrist surgery on March 23, 2009 which disabled him from work.

In a June 22, 2009 decision, OWCP denied appellant's claim on the grounds that he had not submitted sufficient medical evidence to establish a diagnosed condition due to the repetitive employment duties implicated by him.

In a June 23, 2009 statement, appellant provided additional details of the repetitive work duties, which he felt caused his claimed medical conditions. He indicated that prior to starting work for the employing establishment in November 1997 he did not have any medical problems other than a back problem in 1988 which resolved itself at that time.

Counsel requested reconsideration on behalf of appellant on June 17, 2010. In a November 5, 2009 report, Dr. Ouellette diagnosed appellant with right scapholunate ligament dissociation and tear as seen on x-rays and magnetic resonance imaging (MRI) scan testing. She stated, "In regard to his statement of June 23, 2009 and his indication of the repetitiveness of the use of his hands at work and lack of other history of trauma to the hands, the nature of the work duties caused the diagnosed condition in regard to the right upper extremity." Dr. Ouellette stated that appellant had scaphoid lunate advanced collapse of his right wrist as well as a right scapholunate ligament dissociation and tear. She performed right wrist surgery on March 23, 2009 including a limited wrist fusion with interposition arthroplasty. Dr. Ouellette indicated that

when she first saw appellant on November 18, 2008 his right arm condition was such that he had limitations on lifting, gripping and grasping. Appellant continued to have right arm restrictions after his March 23, 2009 surgery (including no repetitive activity or lifting more than 20 pounds) and he had not yet reached maximum medical improvement.

In an August 30, 2010 decision, OWCP denied appellant's claim that he sustained a work-related occupational disease. It found that he provided a detailed description of his employment duties and the development of his symptoms, but that the medical evidence diagnosing right wrist conditions was not sufficiently detailed to explain how the implicated employment duties caused or contributed to the diagnosed conditions.

In a March 20, 2012 letter, appellant, through counsel, requested reconsideration and argued that the November 5, 2009 report of Dr. Ouellette constituted rationalized medical evidence relating the right wrist condition to work factors. In an October 1, 2011 statement, appellant described his former job duties on a typical day which included engaging in extensive grasping, pushing, pulling and lifting heavy items (up to 70 pounds).

In a March 10, 2012 report, Dr. Ouellette stated that she had reread her November 5, 2009 report and appellant's October 1, 2011 statement. She noted:

"The repetitive [hand] and wrist movements requiring flexion and extension as well as exertion of considerable amounts of force especially while fully flexed or extended strains ligaments and tendons thus providing the mechanism or causation of the conditions as I have previously diagnosed as described in my report of [November 5, 2009] as well as the need for treatment described therein. This is definitely secondary to the workload."

By decision dated May 21, 2012, OWCP affirmed its August 30, 2010 decision denying appellant's claim that he sustained a work-related occupational disease. It found that the opinion on causal relationship of Dr. Ouellette was not well rationalized.

Counsel requested reconsideration and continued to argue that the medical evidence supported that appellant sustained work-related occupational diseases. Numerous additional medical documents were submitted in support of the claim. These documents included additional reports of Dr. Ouellette, dated between March 2009 and July 2012. Most of these reports dealt with the treatment of appellant's right wrist condition (including those related to the scapholunate ligament), but some of the reports from 2011 and 2012 also contained diagnoses of lateral epicondylitis of the left elbow, bilateral ulnar nerve lesions and right carpal tunnel syndrome. However, none of these reports contained any opinion on the cause of these conditions. Hospital records indicated that on March 23, 2009 Dr. Ouellette performed surgical repair of a right scapholunate ligament dissociation, but the records did not relate the need for surgery to any work-related cause. Other medical reports added to the record included diagnostic testing of appellant's upper extremities from 2008 through 2012; medical reports produced by the Miami Hand Center from July to October 2008; and an April 1, 2009 report in which Dr. Tosca Kinchelow, an attending Board-certified orthopedic surgeon, diagnosed dislocation of the right wrist. None of these medical records provided any opinion on the cause of the observed conditions.

In a May 17, 2013 decision, OWCP affirmed its May 21, 2012 decision denying appellant's claim that he sustained a work-related occupational disease.

### **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 of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

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.

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The physician's opinion on must be based on a complete factual and medical background of the claimant, 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.<sup>4</sup>

### **ANALYSIS**

Appellant has alleged that he sustained several occupational diseases in the performance of duty, including bulging discs, torn menisci of both knees, radial tunnel syndrome of his left elbow, plantar fasciitis, spurs on both heels and scapholunate ligament tear of the right wrist. The record includes medical notes from physicians diagnosing left radial tunnel syndrome, left lateral epicondylitis, low back pain, bulging back discs, right wrist arthritis, scaphoid lunate advanced collapse of the right wrist and scapholunate ligament dissociation and tear of the right wrist. There is no medical evidence in the record diagnosing the remaining conditions alleged by

---

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> See *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990). A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. § 10.5(ee), (q); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

<sup>4</sup> See *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

appellant including torn menisci in both knees, plantar fasciitis and bilateral heel spurs. Appellant has failed to comply with the first requirement to establish an occupational disease, *i.e.*, a medical diagnosis, with regard to these latter conditions.

Appellant has submitted statements describing his employment duties over the years and asserting that the repetitive walking, standing, lifting, carrying, pushing and pulling in the course of his employment resulted in the medical conditions listed. With regard to the conditions of left radial tunnel syndrome, left lateral epicondylitis, low back pain, bulging back discs, right wrist arthritis, scaphoid lunate advanced collapse of the right wrist and scapholunate ligament dissociation and tear of the right wrist, he has fulfilled the first two elements of an occupational disease claim. However, the Board finds that appellant has not submitted the necessary rationalized medical opinion evidence needed to establish a causal relationship between these diagnosed conditions and his implicated employment duties. Appellant has only submitted brief notes which provide a diagnosis for left radial tunnel syndrome, left lateral epicondylitis, low back pain or bulging back disc. The notes diagnosing these conditions did not include a description of appellant's job duties and did not provide an opinion that these job duties could or did result in the diagnosed conditions. Due to the lack of medical opinion evidence, appellant has not met his burden of proof to establish work-related bulging discs, low back pain, lateral epicondylitis or radial tunnel syndrome in the left elbow.

Before OWCP and on appeal, counsel argued that the reports of Dr. Ouellette, an attending Board-certified hand surgeon, established appellant's claim for an occupational disease. In a November 5, 2009 report, Dr. Ouellette diagnosed right scapholunate ligament dissociation and tear as well as scaphoid lunate advanced collapse. She opined that appellant's repetitive use of his hands at work caused these right upper extremity conditions and resulting surgery which she performed on March 23, 2009. This report is not sufficient to meet his burden of proof as Dr. Ouellette did not provide a history of injury explaining which repetitive work duties caused or contributed to the scapholunate ligament dissociation and tear. Dr. Ouellette also failed to provide any medical reasoning explaining how the implicated work duties could have resulted in the diagnosed condition. Without an appropriate history of injury and medical reasoning, this report is not sufficient to meet appellant's burden of proof to establish an occupational disease or require further development of the medical evidence by OWCP. Dr. Ouellette only made a blanket statement that appellant's wrist condition was due to his employment as there was no history of trauma described by him. Without further detail and explanation this report is insufficient to establish that appellant sustained a work-related occupational disease.

In the March 10, 2012 report, Dr. Ouellette noted that appellant engaged in repetitive hand and wrist movements requiring flexion and extension as well as exertion of considerable amounts of force especially while fully flexed or extended. She indicated that this placed strains on ligaments and tendons and provided "the mechanism or causation of the conditions as I have previously diagnosed as described in my report of [November 5, 2009] as well as the need for treatment described therein." This report also is of limited probative value on the relevant issue of the present case because Dr. Ouellette did not provide adequate medical rationale in support of her opinion on causal relationship. She failed to provide a detailed description of appellant's work duties overtime, which caused the observed right wrist conditions. Dr. Ouellette's description of general hand and wrist movements is insufficient. She did not describe the

medical mechanism through which specific work duties could have caused the diagnosed medical conditions.

Appellant submitted additional reports of Dr. Ouellette, which were dated between March 2009 and July 2012. Most of these reports dealt with the treatment of his right wrist condition, but some of the reports also contained diagnoses of lateral epicondylitis of the left elbow and other arm conditions. None of these reports contained any opinion on the cause of these medical conditions. Other medical reports added to the record included diagnostic testing of appellant's upper extremities from 2008 through 2012; medical reports produced by the Miami Hand Center from July to October 2008; and an April 1, 2009 report in which an attending physician diagnosed dislocation of the right wrist. However, these medical records did not provide any opinion on the cause of the observed medical conditions.

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 not met his burden of proof to establish that he sustained several occupational diseases in the performance of duty, including those affecting his back, knees, feet, left elbow and right wrist.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 17, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 10, 2014  
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