

FACTUAL HISTORY

On October 1, 2013 appellant, then a 60-year-old housekeeping aid, filed a traumatic injury claim alleging that on September 26, 2013, while wiping a bed, he struck the left side of his hand on the bed and sustained injury.

In an October 28, 2013 initial visit report, Dr. Anatoly Rozman, a Board-certified physiatrist, obtained a history that appellant was injured at work on October 10, 2013. He noted that appellant still had significant pain, numbness and tingling in his left hand. Dr. Rozman recommended that appellant proceed with an electromyogram of the left upper extremity to rule out carpal tunnel syndrome or cubital tunnel syndrome versus Guyon's canal syndrome. Regarding the incident of October 10, 2013, it appeared that appellant sustained a contusion when his hand struck a steel bed, but that there was no bruise on the date of Dr. Rozman's examination. In a November 1, 2013 work capacity evaluation, Dr. Rozman noted that since September 26, 2013, appellant had been unable to use his left hand. In a December 2, 2013 report, he stated that appellant was hesitant to proceed with therapy and wished to manage with medication and a brace. Dr. Rozman noted that, if there was no improvement in one month, he would proceed with occupational therapy.

In a December 2, 2013 narrative report, Dr. Rozman noted that he initially saw appellant on October 28, 2013 for an injury at work on October 10, 2013. Appellant was seen by a doctor/physician's assistant at the employing establishment who released him back to work. He complained of significant numbness and tingling in his left hand and had difficulty doing his job. Dr. Rozman opined that appellant apparently sustained a stretching injury to the left hand and that he had problems performing his job duties which required pushing, lifting and fine manipulation. He noted that appellant still had decreased sensation in the distribution of the median and ulnar nerve of the hand to light touch and pinprick. Grip strength was 4+/5 with a negative Spurling's maneuver and negative Finkelstein's test and positive Tinel's sign of the wrist and elbow on the left side. Dr. Rozman opined that appellant's abnormalities were related to the work accident of October 10, 2013. His diagnosis was carpal tunnel syndrome and cubital tunnel syndrome on the left side.

By letter dated January 30, 2014, OWCP informed appellant that his claim was initially determined to be a minor injury that resulted in minimal or no lost time from work. As the employing establishment did not controvert the claim, payment of a limited amount of medical expenses was administratively approved. OWCP reopened appellant's case as it appeared that he had not returned to work in a full-time capacity. It noted that the information of record was not sufficient to accept his claim as no firm diagnosis had been provided. OWCP requested that appellant submit additional medical evidence.

In a nerve conduction study and electromyogram (EMG) dated November 4, 2013, Dr. Rozman listed impressions of mild left carpal tunnel syndrome and mild ulnar nerve entrapment neuropathy at the elbow/mild cubital tunnel syndrome. He noted that he would proceed with occupational therapy, workplace activity adjustment and consider injections. In a January 13, 2014 progress note, Dr. Rozman advised that appellant had a positive Phalen's test and Tinel's sign at the wrist and the elbow on the left side. He noted that appellant experienced

severe numbness and tingling and problems performing his job because of weakness and pain in the left wrist.

By letter dated February 4, 2014, the employing establishment controverted the claim.

By decision dated March 14, 2014, OWCP denied appellant's claim. It found that the medical evidence from Dr. Rozman was not based on a complete or accurate background.

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 the employment injury.² 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.³

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁴ 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.⁵

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.⁶

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *See S.P.*, 59 ECAB 184, 188 (2007).

⁵ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *see also P.W.*, Docket No. 10-2402 (issued August 5, 2011).

⁶ *I.J.*, 59 ECAB 408 (2008); *supra* note 3.

ANALYSIS

OWCP found that appellant experienced the alleged employment incident on September 26, 2013 when he struck his left hand against a metal bed. It denied his claim because he failed to establish that his medical condition was causally related to the accepted incident of September 26, 2013.

Appellant submitted multiple reports by Dr. Rozman, who stated that appellant's carpal tunnel syndrome and cubital tunnel syndrome were causally related to a work accident of October 10, 2013. The Board notes that the accepted incident in this case was on September 26, 2013, not October 10, 2013. For this reason, Dr. Rozman did not base his reports on an accurate history. Moreover, he did not submit a rationalized medical opinion explaining how appellant's left wrist or hand condition was causally related to the accepted employment incident. Dr. Rozman noted that there was no bruise on the hand when appellant was examined on October 28, 2013. He did not adequately explain how striking appellant's hand on a steel bed caused or contributed to his carpal tunnel syndrome or ulnar nerve entrapment. The Board notes that the mere fact that a condition became evident during a period of employment does not establish causation.⁷

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 his belief that his condition was caused by his employment is sufficient to establish causal relationship.⁸ As appellant did not submit a rationalized medical opinion establishing a causal relationship between his accepted employment activities and a diagnosed medical condition, he did not meet his burden of proof.

The Board notes that appellant submitted new evidence after the issuance of the March 14, 2014 decision. The Board lacks jurisdiction to review evidence for the first time on appeal.⁹ 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 to 10.607.

CONCLUSION

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on September 26, 2013, as alleged.

⁷ *S.G.*, Docket No. 13-1263 (issued September 20, 2013).

⁸ *Walter D. Morehead*, 31 ECAB 188 (1986).

⁹ 20 C.F.R. § 501.2(c)(1).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 14, 2014 is affirmed.

Issued: August 14, 2014
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge
Employees' Compensation Appeals Board

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

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