United States Department of Labor
Employees' Compensation Appeals Board

I.A., Appellant	)	
and	)	**Docket No. 13-1701**
	)	**Issued: January 17, 2014**
DEPARTMENT OF THE AIR FORCE, 544th PROPULSION MAINTENANCE SQUADRON, TINKER AIR FORCE BASE, 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
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On July 9, 2013 appellant timely appealed the May 3, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied his occupational disease claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant's right arm condition is causally related to his federal employment.

FACTUAL HISTORY

On November 13, 2012 appellant, then a 62-year-old painter, filed an occupational disease claim (Form CA-2) for carpal tunnel syndrome that arose on or about October 16, 1991.

[1] 5 U.S.C. §§ 8101-8193 (2006).

He had previously filed a claim for injury arising on October 16, 1991, which OWCP accepted for right carpal tunnel syndrome (xxxxxx499). Appellant underwent bilateral carpal tunnel surgery in the early 1990's and afterward he resumed work. He retired effective December 30, 2012.

Dr. Houshang Seradge, a Board-certified orthopedic surgeon, examined appellant on September 12, 2007. He noted episodes of right hand locking and triggering since 1991. Appellant's condition had recently worsened with increased activity and use of the right hand. Dr. Seradge diagnosed trigger finger and tenosynovitis of the flexor tendon in the index, long, ring and little finger of the right hand. He noted similar problems with appellant's left ring finger. On physical examination there was a negative carpal tunnel compression test; however, radial tunnel compression test was extremely positive. Some of appellant's complaints dated back to 1991. In view of the duration of some symptoms, Dr. Seradge stated that appellant's recent employment activity was not the primary cause of injury. He advised that work had aggravated appellant's preexisting condition and recommended surgical intervention for a tenosynovectomy and trigger releases to the right index, long, ring and little finger. Dr. Seradge also proposed a right radial tunnel release. Appellant had surgery on October 11, 2007.

With respect to his present right hand complaints, appellant explained that the pain recurred on November 13, 2012. His daily employment duties involved repetitive hand movements, which included three hours of perpetual hand movements while holding a one-pound paint gun. Appellant's daily work routine also included three hours of cleaning air craft materials and two hours of documenting material on a computer or by hand. He also reportedly lifted F100 engine shafts weighing 25 pounds.

Dr. Theodore A. Mickle, Jr., a Board-certified family practitioner, treated appellant on November 13, 2012 at the employing establishment's clinic. That morning appellant had been spray painting F100 shafts when his right fingers/hand locked up while gripping a paint gun. He was unable to open his right hand without assistance. Appellant experienced a tingling sensation in the right middle, ring and pinky fingers that radiated into the elbow and shoulder. Dr. Mickle diagnosed right forearm muscle spasm, "onset while using aircraft paint gun." He placed appellant on limited duty with no use of the right hand or arm. Appellant was to use his left hand to perform his duties. He returned to the clinic for follow up on November 16 and 20, 2012. On both occasions, Dr. Mickle extended appellant's limited-duty restrictions.

On November 27, 2012 appellant returned to the clinic where he was seen by Dr. Philip M. Beck, a Board-certified family practitioner. The treatment notes advised that no further issue arose with cramping, but appellant continued to experience intermittent digit numbness and tingling. Dr. Beck did not provide a specific diagnosis, but continued with the previous work restrictions pending further evaluation by appellant's personal physician, which was scheduled for December 4, 2012.

Appellant followed up with Dr. Beck on December 5, 2012. He saw his primary care physician who referred him to a hand surgeon. The primary care physician also advised appellant to continue with his previous work restrictions. Having noted that appellant did not provide any documentation from his primary care physician, Dr. Beck extended the limited-duty

restrictions. He did not provide a firm diagnosis with respect to appellant's right upper extremity.

On December 13, 2012 appellant returned for follow up and Dr. Beck once again extended his work restrictions. Appellant saw the hand surgeon who advised that he was starting to have trigger finger again. The hand surgeon also administered a steroid injection in appellant's right hand. Appellant did not provide Dr. Beck with any documentation from the hand surgeon. Dr. Beck accommodated appellant's request for continued work restrictions, but he did not provide a current right upper extremity diagnosis.

By letter dated February 13, 2013, the employing establishment controverted the claim. Appellant had a history of insulin-dependent diabetes with diabetic neuropathy. The employing establishment noted that this condition could also cause symptoms similar to those he was currently experiencing.

In a March 27, 2013 decision, OWCP denied the claim. It found that the claim was not timely filed within three years of October 16, 1991.[2]

On April 24, 2013 appellant requested reconsideration.

By decision dated May 3, 2013, OWCP denied appellant's claim. It accepted the 2012 claim as timely filed, but found that the medical evidence did not establish that his diagnosed right arm condition was causally related to his federal employment.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.[3]

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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;

[2] OWCP advised appellant that, if he was seeking additional medical care under claim number xxxxxx1499, he should separately file Form CA-2a under that claim number.

[3] 20 C.F.R. § 10.115(e), (f) (2012); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.[4]

ANALYSIS

Appellant has a history of right upper extremity complaints dating back to 1991. He has a previously accepted claim for right carpal tunnel syndrome (xxxxxx499). While the current claim, filed in November 2012, listed the same October 16, 1991 date of injury as the previous accepted claim, there is no current diagnosis of right carpal tunnel syndrome. Appellant does not appear to be claiming either a recurrence (Form CA-2a) of disability or a recurrence of a medical condition under his prior claim.

Appellant identified November 13, 2012 as the date of onset of his latest right hand complaints. That morning he had been spray painting jet engine parts using a one-pound paint gun. Appellant stated that his right fingers locked up while gripping the paint gun and he was unable to open his hand without assistance. He also reported having experienced a tingling sensation in the right middle, ring and little fingers that radiated into the elbow and shoulder. Following the incident, appellant went to the employing establishment's clinic where Dr. Mickle diagnosed right forearm muscle spasm. He reported an "onset while using aircraft paint gun."

The mere fact that a condition manifests itself during a period of employment is not sufficient to establish causal relationship.[5] Appellant's use of an aircraft paint gun at the time he experienced a muscle spasm does not, by itself, establish that the equipment and/or his spray painting activities caused or contributed to a diagnosed condition. A mere temporal relationship between the employment activity and the reported symptoms will not suffice for purposes of establishing a causal relationship.[6] OWCP requested that he submit a narrative report from an attending physician addressing causal relationship.

Appellant returned to the clinic on several occasions between November 16 and December 13, 2012, but none of the treatment notes provide a firm medical diagnosis. The clinic records also failed to provide a definitive opinion on the cause of appellant's right arm condition. Appellant's belief that factors of employment caused or aggravated his condition is insufficient, by itself, to establish causal relationship.[7] The issue of causal relationship is a medical one and must be resolved by probative medical opinion from a physician. Accordingly, the Board finds that he failed to establish that his current right upper extremity condition is employment related.

[4] *Victor J. Woodhams, id*.

[5] 20 C.F.R. § 10.115(e).

[6] *See D.I.*, 59 ECAB 158, 162 (2007). The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship. *Id.*

[7] 20 C.F.R. § 10.115(e); *Phillip L. Barnes*, 55 ECAB 426, 440 (2004).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision.[8]

CONCLUSION

Appellant has not demonstrated that his current right upper extremity condition is causally related to his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the May 3, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 17, 2014
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

[8] 5 U.S.C. § 8128(a); 20 C.F.R. §§ 10.605-10.607.