United States Department of Labor
Employees' Compensation Appeals Board

L.W., Appellant	)	
and	)	**Docket No. 14-36**
	)	**Issued: March 6, 2014**
U.S. POSTAL SERVICE, POST OFFICE, Princeton, NJ, Employer	)	

Appearances:
Thomas R. Uliase, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 15, 2013 appellant, through his attorney, filed a timely appeal from the May 1 and July 17, 2013 merit decisions 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 review the merits of this case.

ISSUE

The issue is whether appellant sustained right carpal tunnel syndrome in the performance of duty causally related to factors of his federal employment.

On appeal, counsel contends that the factual and medical evidence of record is sufficient to establish that appellant sustained employment-related right carpal tunnel syndrome.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On April 11, 2012 appellant, then a 57-year-old letter carrier, filed an occupational disease claim alleging that on May 5, 2010 he first became aware of his carpal tunnel syndrome and realized that his condition was caused by the repetitive motion of his right hand while casing mail.

In a January 26, 2012 medical report, Dr. Laura E. Ross, a Board-certified orthopedic surgeon, noted appellant's right wrist, arm, leg, foot and neck symptoms. She listed findings on physical examination and diagnosed cervical and lumbar sprain/strain and right leg pain.

In a February 1, 2012 report, Dr. Craig S. Kimmel, a Board-certified family practitioner, advised that appellant had complex regional pain syndrome in his right foot and ankle resulting from an injury and subsequent surgery in 2007. Appellant had progressive hyperesthesia and sweating and swelling with loss of preprioception and balance which caused an inability to concentrate, severely impaired judgment, memory and sleep loss, and severe anxiety and depression. He had multiple falls and it was not safe for him to stand or walk any distance without aid. Dr. Kimmel opined that appellant was permanently and totally disabled due to his condition. He stated that appellant's multiple falls led to his neck injury with right cervical radiculopathy. This condition caused burning pain and numbness down his right arm into his fingers. Appellant also had numbness in his face and back. Dr. Kimmel stated that this made it difficult for him to work. Appellant's cervical radiculopathy was compounded by carpal tunnel syndrome in the right hand which had not responded to treatment and may require surgery. Dr. Kimmel advised that the area of his complex regional pain syndrome had spread up his right leg and affected his thigh and lower back. He concluded that appellant had problems with sciatica which further complicated his clinical picture.

By letter dated May 21, 2012, OWCP advised appellant that the evidence submitted was insufficient to establish his claim. It requested factual and medical evidence, including a rationalized medical opinion from an attending physician explaining the causal relationship between his claimed medical condition and his federal employment.

In a May 13, 2010 report, Dr. Arun Kachroo, a Board-certified neurologist, stated that an electromyogram/nerve conduction (EMG/NCV) study showed mild right carpal tunnel syndrome. There was no evidence of an ulnar nerve injury or cervical radiculopathy on the right.

In a May 1, 2012 report, Dr. Gary Buck, a Board-certified anesthesiologist, noted appellant's neck, right arm and leg and back symptoms. He obtained a history of his medical treatment and reviewed prior diagnostic test results. Dr. Buck listed findings on physical examination and diagnosed lumbar and cervical radiculopathy. He stated, however, that reflex sympathetic dystrophy was hard to rule out. Dr. Buck ordered additional diagnostic testing.

In a June 11, 2012 report, Dr. Scott F. Garberman, a surgeon, listed findings on physical examination. He advised that appellant had right carpal tunnel syndrome and inflammatory flexor tenosynovitis.

By decision dated August 14, 2012, OWCP denied appellant's occupational disease claim finding that the evidence did not establish the claimed work factor.

By letter dated September 12, 2012, appellant, through his attorney, requested an oral hearing before an OWCP hearing representative.

In a January 13, 2012 report, Dr. Garberman reviewed appellant's job description and advised that his carpal tunnel syndrome was closely related to his 15 years of working as a letter carrier.

During a December 27, 2012 oral hearing appellant described his work duties. He sorted, bundled and cased mail. Appellant prepared the mail for delivery. He carried and moved mail trays loading them into his delivery truck. Appellant walked up and down steps, and carried and delivered mail into boxes.[2]

In a May 1, 2013 decision, an OWCP hearing representative found that appellant submitted sufficient evidence to establish the claimed employment factors, but he submitted insufficient rationalized medical evidence to establish that the accepted employment factors caused the claimed carpal tunnel syndrome condition.

By letter dated June 11, 2013, appellant, through his attorney, requested reconsideration.

In an August 10, 2011 report, Dr. Hillard C. Sharf, Board-certified in internal medicine and neurology, obtained a history of appellant's July 27, 2011 employment injuries, medical treatment, family and social background. He provided findings on physical and neurological examination and reviewed emergency room records. Dr. Sharf advised that appellant had mild postconcussion syndrome and cervical strain. It was also likely that appellant had a temporomandibular joint problem. Dr. Sharf recommended diagnostic testing. In an October 11, 2011 report, he advised, after conducting a physical examination, that appellant continued to have complaints related to his postconcussion syndrome. Dr. Sharf further advised that appellant was unable to perform his letter carrier duties.

In a report dated January 26, 2012, Dr. Kimmel obtained a history of appellant's medical treatment and family background. He advised that appellant's complex regional pain syndrome with severe pain caused his secondary depression and cognitive problems. His condition was worsened by his lack of strength and balance in the right leg. Appellant could not safely drive to work. Dr. Kimmel reiterated his prior opinion that he was totally and permanently disabled.

In reports dated February 10 and March 9, 2012, Dr. Max Shenin, a Board-certified internist, obtained a history that in September 2007 appellant fractured his right heel and received medical treatment. Dr. Shenin also obtained a history of the July 27, 2011 employment injuries and appellant's medical treatment. He listed findings on physical examination and diagnosed reflex sympathetic dystrophy of the lower limb and disturbance of skin sensation.

[2] Appellant testified at the hearing that he retired from the employing establishment in July 2011 following an injury he sustained during that month. He filed a claim for his July 27, 2011 injury under File No. xxxxxx188 which OWCP accepted for left postconcussion syndrome, neck sprain and left eye/eyelid contusion. In decisions dated July 12, 2012 and February 19, 2013, OWCP terminated appellant's wage-loss compensation on the grounds that he no longer had any employment-related residuals or disability. The weight of the medical evidence established that he could return to his date-of-injury letter carrier position and that his cervical herniated nucleus pulposus, radiculopathy and emotional conditions were not causally related to the July 27, 2011 employment injuries.

An unsigned report dated April 20, 2012 stated that a cervical magnetic resonance imaging (MRI) scan revealed disc dissection of the C5-6 disc with rather well-maintained disc height and prominent signal changes in the adjacent endplates showing moderate degenerative changes with narrowing of the right C5-6 neural foramen, the left appeared adequate. There was a central protrusion of the C5-6 disc. There was also a disc bulge without mass effect of the C4-5 and C3-4 discs. There was no stenosis. The cervical cord was normal throughout. An unsigned MRI scan report dated January 11, 2012 stated that the cervical spine had small disc herniations at C3-4 and C5-6 without narrowing of the spinal canal and neural foramina. There was straightening of the cervical spine without fracture, listhesis or facet misalignment.

In a May 24, 2013 report, Dr. Garberman reviewed appellant's medical records and work activities. He believed there was causal relationship between his carpal tunnel syndrome and job based on his length of work as a letter carrier and the well-documented repetitive nature of his job. Dr. Garberman stated that appellant had no other predisposing factors that could have gone into this constellation of symptoms. The EMG study was conclusive and ruled out any other secondary findings. Dr. Garberman concluded that appellant's consistent positive clinical responses to cortisone injections strictly in the carpal tunnel confirmed his opinion.

In a July 17, 2013 decision, OWCP denied modification of its prior decision. It found the medical evidence insufficient to establish that the accepted employment factors caused appellant's claimed carpal tunnel syndrome.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[4] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[5]

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 medical evidence required to establish a causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable certainty, and must be supported by

[3] 5 U.S.C. §§ 8101-8193.

[4] *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[5] *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

medial rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.[6] Neither the fact that appellant's condition became apparent during a period of employment nor, his belief that the condition was caused by his employment is sufficient to establish a causal relationship.[7]

ANALYSIS

OWCP accepted as factual that appellant performed repetitive duties while working as a letter carrier. While the work duties are established, the Board finds that he failed to establish a causal relationship between his claimed right carpal tunnel syndrome and the established factors of his employment.

Dr. Garberman's reports found that appellant had right carpal tunnel syndrome and inflammatory flexor tenosynovitis related to his letter carrier work duties. He conducted a physical examination and reviewed appellant's job description. Dr. Garberman stated that appellant had no other predisposing factors as the cause of his symptoms. While he opined that appellant's right carpal tunnel syndrome and inflammatory flexor tenosynovitis were the result of his work duties, he failed to adequately explain how the established employment factors caused or contributed to these conditions other than offering a generalized opinion that such work factors contributed to right carpal tunnel syndrome and inflammatory flexor tenosynovitis. As Dr. Garberman failed to provide a sufficient explanation as to the mechanism of injury, his general statement that appellant sustained a work-related injury is of limited probative value.[8]

The reports from Drs. Ross, Kimmel, Kachroo, Buck, Sharf and Shenin addressed appellant's physical and emotional conditions, including right carpal tunnel syndrome. Drs. Kimmel and Sharf opined that he was permanently and totally disabled from work as a letter carrier. However, the physicians did not provide a medical opinion addressing whether the established employment factors caused or aggravated appellant's conditions and resultant disability. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.[9] The Board finds, therefore, that the reports of Drs. Kimmel, Kachroo, Buck, Sharf and Shenin are insufficient to establish appellant's claim.

The unsigned diagnostic test reports have no probative medical value in establishing that appellant sustained right carpal tunnel syndrome causally related to the established employment factors as the author cannot be identified as a physician.[10]

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant sustained right carpal tunnel syndrome causally related to the accepted employment factors. Appellant did not meet his burden of proof.

---

[6] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams, supra* note 5 at 351-52.

[7] *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

[8] *S.W.*, Docket 08-2538 (issued May 21, 2009).

[9] *See K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

[10] *See Ricky S. Storms*, 52 ECAB 349 (2001); *Morris Scanlon*, 11 ECAB 384, 385 (1960).

On appeal, appellant's attorney contended that the factual and medical evidence of record is sufficient to establish that appellant sustained employment-related right carpal tunnel syndrome. For reasons stated above, the Board finds that the weight of the medical evidence does not establish that appellant sustained right carpal tunnel syndrome causally related to the established employment factors.

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 failed to establish that he sustained right carpal tunnel syndrome in the performance of duty causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the July 17 and May 1, 2013 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 6, 2014
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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