



## **FACTUAL HISTORY**

On July 26, 2013 appellant, then a 37-year-old nursing assistant, filed a traumatic injury claim alleging that on July 23, 2013 she sustained pain and numbness in her left hand and arm after resting her elbows and arms on a patient's bedside table for 15 to 20 minutes. The employing establishment controverted her claim contending that her condition was not work related. It explained that appellant was seated in a chair observing others provide medical care and was not completing any task that required her to remain in an awkward position.

In a letter dated August 5, 2013, OWCP advised appellant that no evidence was submitted to establish her claim. It requested additional factual evidence to establish that the July 23, 2013 incident occurred as alleged and additional medical evidence to establish that she sustained a diagnosed condition as a result of the alleged incident.

In a July 26, 2013 medical form and disability note, Dr. Daniel J. Kupas, an osteopath, provided physical examination findings. He diagnosed nerve entrapment of the left forearm. Dr. Kupas noted that appellant was able to return to light duty with restrictions of no grasping or lifting with the left arm.

In an August 1, 2013 report, Dr. Raymond R. Drabicki, a Board-certified orthopedic surgeon, related appellant's complaints of left hand numbness. He stated that one week prior she experienced a sudden onset of numbness in the left four ulnar fingers when she rested both arms on two coffee tables. Dr. Drabicki noted that appellant was seen in the emergency room and informed that she had a crush injury to the ulnar nerve. Upon examination, he observed temperature difference on the left between the bilateral upper extremities. Dr. Drabicki also found 2+ radial pulses and 1+ ulnar pulse. Range of motion of the left upper extremity was full. Dr. Drabicki noted no obvious swelling and no palpable masses. Sensation was decreased to light touch and to pinprick. X-rays of the elbow were unremarkable. Dr. Drabicki diagnosed left upper extremity anesthesia crossing multiple nerve distributions. He stated that the history did not appear to fit the criteria for an ulnar nerve compression and recommended a magnetic resonance (MR) angiogram and an electromyography (EMG) nerve conduction study (NCV) of the left upper extremity.

In an August 14, 2013 statement, appellant explained that on July 23, 2013 she was sitting with a patient on another floor. At 7:40 p.m. she placed both arms in a resting position on the table and at 8:00 p.m. she noticed her four fingers, hand and arm were numb like they had fallen asleep. The symptoms continued through the evening and the following day. Appellant went to the emergency room and was told that she had a crushed/contusion of the ulnar nerve. On July 26 she followed up with her primary care physician and was given restrictions of no grasping or lifting with the left hand and arm. On August 1, 2013 appellant was examined by an orthopedic surgeon, who recommended further tests and kept the work restrictions in place. In response to a second question by OWCP, previous problems to her arm, she stated: "I have or had any problems on conditions to this arm prior to this claim."

In an August 22, 2013 report, Dr. Drabicki conducted a follow-up examination of appellant's complaints of numbness of the left upper extremity. He observed generalized decreased sensation and slight temperature difference of the left upper extremity. Dr. Drabicki

noted that the MR angiogram of the elbow was negative. He diagnosed left upper extremity hand numbness.

In a September 10, 2013 report, Dr. Drabicki stated that EMG and NCV studies performed on September 4, 2013 revealed no neurologic findings. Upon examination, he diagnosed snapping ulnar nerve with symptomatic left elbow. Dr. Drabicki authorized appellant to return to full duty on September 11, 2013.

In a decision dated September 17, 2013, OWCP denied appellant's claim. It found insufficient factual evidence to establish that the July 23, 2013 incident occurred as alleged. OWCP also found that the medical evidence was insufficient to establish that appellant's left arm condition was causally related to the alleged incident.

By appeal request form dated September 20, 2013, appellant requested reconsideration. She described the July 23, 2013 employment incident and stated that her symptoms were caused by the elbow being bent and placed on a hard surface. Appellant noted that she never had problems or symptoms of this condition until the date of injury. She provided an article on Ulnar Nerve Dislocation.

In a September 4, 2013 report, Dr. David D. Alcantara, a specialist in pain management and rehabilitation, related appellant's complaints of left hand discomfort for approximately one month after she rested her left arm on a table for approximately 15 to 20 minutes. Upon examination he observed no tenderness throughout and full range of motion. Sensation was diminished in a regional distribution on the left. Reflexes were 2+ and symmetrical bilaterally. Spurling's test was negative and Tinel's test was positive at the ulnar groove. Dr. Alcantara noted that palpation of the ulnar groove demonstrated a snapping ulnar nerve on the left side. He reported that sensory nerve and motor nerve conduction studies revealed normal amplitude and latency in the median, ulnar and radial sensory nerves. Needle electromyography also demonstrated normal findings in all tested muscles. Dr. Alcantara reported that upon physical examination appellant had a snapping ulnar nerve on the left side, which may contribute to her symptoms without giving her any evidence of electrodiagnostic nerve injury. He stated that her symptoms may represent a neuropraxic injury when she initially had symptoms but did not show any evidence of damage at the present time. Dr. Alcantara opined that appellant's decreased strength and sensation in a regional distribution was somewhat unexplainable.

By decision dated November 7, 2013, OWCP modified its September 17, 2013 decision. It accepted that the July 23, 2013 incident occurred as alleged but denied appellant's claim finding insufficient medical evidence to establish that she sustained a diagnosed left arm condition as a result of the accepted incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

evidence<sup>4</sup> including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether “fact of injury” has been established.<sup>6</sup> There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.<sup>7</sup> Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup> An employee may establish that the employment incident occurred as alleged but fail to show that her disability or condition relates to the employment incident.<sup>9</sup>

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.<sup>10</sup> The opinion of the 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.<sup>11</sup> The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.<sup>12</sup>

### ANALYSIS

Appellant alleged that on July 23, 2013 she sustained an injury to her left hand and arm after she rested her elbows and arms on a table in the performance of duty. In decisions dated September 17 and November 7, 2013, OWCP accepted that the July 23, 2013 incident occurred but denied her claim finding insufficient medical evidence to establish that her left upper extremity condition was causally related to the accepted incident. The Board finds that appellant did not meet her burden of proof to establish that her left upper extremity condition was a result of the July 23, 2013 employment incident.

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<sup>4</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>5</sup> *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

<sup>7</sup> *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

<sup>8</sup> *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

<sup>10</sup> *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

<sup>11</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>12</sup> *James Mack*, 43 ECAB 321 (1991).

Appellant submitted various reports from Dr. Drabicki, who related that she experienced a sudden onset of numbness in the left four ulnar fingers when she rested both arms on coffee tables. Upon examination of the left upper extremity, Dr. Drabicki observed temperature difference on the left and full range of motion. He noted 2+ radial pulses and 1+ ulnar pulse. Sensation was decreased to light touch and to pinprick and x-rays of the elbow were unremarkable. Dr. Drabicki diagnosed left upper extremity anesthesia and numbness. He subsequently advised that MR angiogram and EMG/NCV studies were negative. Dr. Drabicki authorized appellant to return to full duty on September 11, 2013. Although he accurately described the July 23, 2013 incident and provided findings on examination, he did not provide a firm medical diagnosis, other than noting numbness, of the left hand and arm. Dr. Drabicki also failed to provide any opinion on the cause of appellant's left hand numbness. 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.<sup>13</sup> Dr. Drabicki did not adequately explain with medical rationale how the described incident of resting both arms on a coffee table caused or contributed to appellant's left hand numbness. His reports, therefore, are insufficient to establish a causal relationship between the July 23, 2013 employment incident and her alleged injury.

The July 26, 2013 examination note of Dr. Kupas and Dr. Alcantara's September 4, 2013 EMG/NCV reports are also insufficient to establish appellant's claim. Neither physician provided any opinion on the cause of her left hand symptoms.

The issue of causal relationship is a medical question that must be established by probative medical opinion from a physician.<sup>14</sup> Because appellant has not provided such medical evidence, the Board finds that she did not meet her burden of proof to establish her claim.

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 did not meet her burden of proof to establish that she sustained a left arm injury causally related to a July 23, 2013 employment incident.

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<sup>13</sup> *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).

<sup>14</sup> *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, *see supra* note 8.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 7 and September 17, 2013 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 5, 2014  
Washington, DC

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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

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