

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

E.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Greensboro, NC, Employer**

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**Docket No. 14-1338
Issued: October 15, 2014**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On May 21, 2014 appellant filed a timely appeal from the December 16, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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's left thumb arthritis and bilateral carpal tunnel syndrome are causally related to his federal employment.

FACTUAL HISTORY

On October 31, 2013 appellant, a 45-year-old rural mail carrier, filed an occupational disease claim alleging that his carpal tunnel syndrome was the result of his federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

He indicated that he first became aware of his condition and that it may be causally related to his employment, on January 31, 2013.

Appellant stated that he worked as a carrier from 1994 to 2007. After injuries in other cases, he helped in the office from 2007 to 2010. On September 21, 2010 the employing establishment removed appellant from those duties and sent him home, as productive work was no longer available for him. Appellant finished his Business Administration degree. While in his first semester, which was the spring of 2011, he had some problems with his neck and mostly his left hand. Appellant stated that it was while having an electromyogram for his neck that his bilateral carpal tunnel syndrome was identified. He stated that for years he had problems with his hands falling asleep.

Dr. Scott M. Wein, a Board-certified orthopedic surgeon specializing in surgery of the hand, saw appellant on October 16, 2013 for evaluation of bilateral hand numbness and left hand pain. Appellant was also treated by another physician for carpal tunnel syndrome. An electrodiagnostic study in January 2013 showed a moderate degree of median neuropathy on the left, mild on the right. Dr. Wein noted that appellant was formerly employed as a rural mail carrier and had been out of work since 2010. Appellant was also treated for bilateral shoulder problems with surgery. He had intermittent numbness and tingling in the forearm and hands bilaterally for 10 years or so. Appellant also complained of pain along the base of his left thumb. Dr. Wein noted that appellant's job had entailed quite a bit of lifting packages and such with his left hand. Appellant's paresthesias were aggravated by driving, and as a mail carrier, he drove up to five hours a day.

X-rays showed moderate arthritic changes to the left thumb carpometacarpal (CMC) joint. Carpal tunnel compression test was positive bilaterally. Dr. Wein diagnosed left thumb CMC joint arthritis and bilateral carpal tunnel syndrome. He remarked: "I do think that his former occupation as a mail carrier, which requires prolonged driving and repetitive hand use for sorting and such, would predispose him to both conditions."

In a decision dated December 16, 2013, OWCP denied appellant's occupational disease claim. Appellant indicated that he first became aware of his condition on January 31, 2013, almost three years after he stopped working. He noticed problems with his neck and mostly his left hand after being sent home and while he was completing his business degree. Dr. Wein believed that employment as a rural carrier may have predisposed appellant, but he did not address intervening events, such as completing his degree and not having worked in three years. OWCP therefore found that appellant had not established the element of performance of duty. The evidence was insufficient to establish that the claimed injury arose in the course of federal employment and within the scope of compensable factors.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.² An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an

² 5 U.S.C. § 8102(a).

employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.³

Causal relationship is a medical issue,⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty,⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

ANALYSIS

OWCP has denied appellant's occupational disease claim because the evidence was insufficient to establish that the claimed injury arose in the course of federal employment. It based this finding on evidence that, notwithstanding the duties appellant performed as a rural mail carrier through 2007 and in his limited-duty assignment through 2010, he did not become symptomatic in his neck or left hand until approximately six months after he was sent home and was thus no longer exposed to the implicated employment factors. It was not until January 2013, when he underwent an EMG for his neck pain, that his bilateral carpal tunnel syndrome was identified.

As OWCP does not dispute the duties appellant performed in his federal employment, he has met his burden to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question that remains is whether those work activities caused the left thumb arthritis and bilateral carpal tunnel syndrome for which he seeks compensation.

There is only one medical report that addresses the issue. When he saw appellant on October 16, 2013, Dr. Wein, the attending orthopedic surgeon, noted that appellant was formerly employed as a rural mail carrier and had been out of work since 2010. He noted that appellant's job entailed quite a bit of lifting packages and such with his left hand. Appellant's paresthesias were aggravated by driving, and as a mail carrier, he drove up to five miles a day. It was Dr. Wein's opinion that appellant's former occupation, which required prolonged driving and repetitive hand use for sorting and such, would predispose him to both left thumb CMC joint arthritis and bilateral carpal tunnel syndrome.

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

Dr. Wein supported appellant's occupational disease claim, but failed to explain how lifting packages or driving or sorting mail could have caused arthritis or carpal tunnel syndrome. He did not point to any evidence in the record that convinced him the activities appellant performed as a rural mail carrier until 2007 had, in fact, caused the current conditions.

Sound medical reasoning is particularly needed in this regard, as it appears from appellant's statements that he was not actually symptomatic with neck or hand pain until the spring of 2011, about four years after he last worked as a carrier. During his first educational semester that year, as he pursued his business degree, he had some problems with his neck and mostly his left hand. It was in January 2013, while having an electromyogram for his neck, that appellant's bilateral carpal tunnel syndrome was identified. Dr. Wein did not explain how, the diagnosed condition was related to employment duties nor did he address nonwork activities in the intervening period which could have been causative. He did not address, for instance, whether appellant's pursuit of a degree involved the repetitive use of his hands for typing.

Dr. Wein's opinion is insufficient. The temporal relationship between the duties appellant performed as a carrier until 2007, or the duties he performed in his limited-duty assignment until 2010, and the later expression of his diagnosed conditions is not sufficient to establish causal relationship. The Board finds that Dr. Wein's opinion lacks the sound medical reasoning required by the circumstances of the case to establish this critical element. Accordingly, the Board finds that appellant has not met his burden of proof. The Board affirms OWCP's December 16, 2013 decision denying his occupational disease 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 has not met his burden to establish that his left thumb arthritis and bilateral carpal tunnel syndrome are causally related to his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 16, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 15, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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