

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

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G.R., Appellant )  
and ) Docket No. 14-1057  
SOCIAL SECURITY ADMINISTRATION, ) Issued: September 3, 2014  
Salinas, CA, Employer )  
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)

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA HOWARD FITZGERALD, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On April 4, 2014 appellant filed a timely appeal from a March 3, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 established an employment-related disability from September 23 to 24, 2010 or December 22, 2010 to February 8, 2011, based on the accepted right wrist condition.

**FACTUAL HISTORY**

On September 27, 2010 appellant, then a 46-year-old claims representative, filed an occupational claim (Form CA-2) alleging that she sustained right carpal tunnel syndrome as a

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

result of repetitive activity in her federal employment. She noted that her duties included typing, writing and answering telephone calls.<sup>2</sup>

In a duty status report (Form CA-17) dated September 22, 2010, Dr. Karen Winn, a Board-certified internist, diagnosed pain in the right hand, thumb and wrists, with questionable tendinitis. The injury occurred by writing and typing. Dr. Winn stated that appellant developed pain on September 21, 2010 while doing her usual work. She indicated that appellant could return to work on September 27, 2010. Dr. Winn also submitted a brief note stating that appellant should be off work through September 26, 2010.

On October 8, 2010 OWCP accepted appellant's claim for right wrist tendinitis.<sup>3</sup> The record indicates that she returned to a modified-duty position but stopped work on December 22, 2010. In a report dated December 21, 2010, Dr. Steven Schumann, an occupational medicine specialist, diagnosed wrist tendinitis and wrist strain. He stated that appellant was unable to work from December 22, 2010 to January 11, 2011. In a treatment note dated January 11, 2011, Dr. Schumann advised that she was unable to work through January 25, 2011. In a report dated January 25, 2011, he diagnosed carpal tunnel syndrome and indicated that appellant remained unable to work through February 22, 2011.

In a report dated January 24, 2011, Dr. Jeffrey Pratt, a Board-certified orthopedic surgeon, provided a history and results on examination. He diagnosed bilateral carpal tunnel syndrome, right greater than left.

On March 24, 2011 appellant submitted a Form CA-7 claim for compensation due to leave buyback for the period September 22, 2010 to February 18, 2011. The accompanying leave analysis noted that she was off work on September 23 and 24, 2010 and then December 22, 2010 to February 18, 2011.

By letter dated May 11, 2011, OWCP advised appellant that compensation for appropriately claimed medical appointments would be paid, but that wage-loss compensation for the claimed dates of disability had to be supported by probative medical evidence. It advised her to submit additional evidence within 30 days. OWCP was noted that, if appellant was claiming compensation due to left carpal tunnel syndrome, she should pursue that issue under the claim filed on January 20, 2011.

In a report dated May 24, 2011, Dr. Schumann stated that appellant had been totally disabled since December 22, 2010 "due to injury to her right hand." He stated that even light work exacerbated the pain and swelling of her right hand. In a report dated May 26, 2011, Dr. Schumann referred to both OWCP claim numbers (the current case file and the claim filed on January 20, 2011) and stated that appellant was temporarily totally disabled from December 22, 2010 to June 10, 2011 due to injuries to her right and left wrists. He stated that

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<sup>2</sup> On January 20, 2011 appellant filed a claim identifying these same duties as contributing to left carpal tunnel syndrome. Although these case files are administratively linked, OWCP developed two separate case files and issued separate decisions on the two claims. The decision on the current appeal is limited to the right wrist.

<sup>3</sup> The identified International Classification of Diseases Code was 726.4, which is defined as enthesopathy of the wrist.

appellant was seen on September 28, 2010 for bilateral wrist pain and even light work exacerbated the pain and swelling of her hands and wrists. Dr. Schumann stated that the disability “applies equally to both wrists and both cases.”

By decision dated March 3, 2014, OWCP denied the claim for leave buyback from September 22, 2010 to February 18, 2011. It found that the medical evidence was insufficient to establish the claim.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of establishing the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> The term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.<sup>6</sup>

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative and substantial medical evidence.<sup>7</sup> Findings on examination are generally needed to support a physician’s opinion that an employee is disabled for work. When a physician’s statements regarding an employee’s ability to work consist only of repetition of the employee’s complaints that he or she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.<sup>8</sup>

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>9</sup>

To establish a causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and

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<sup>4</sup> 5 U.S.C. §§ 8101-8193.

<sup>5</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> 20 C.F.R. § 10.5(f); *see e.g.*, *Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

<sup>7</sup> *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>8</sup> *Id.*

<sup>9</sup> *Terry R. Hedman*, 38 ECAB 222 (1986).

medical background, supporting such a causal relationship.<sup>10</sup> The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship.<sup>11</sup>

## ANALYSIS

Appellant filed a claim with respect to her right wrist condition causally related to repetitive activity in her federal employment. The accepted condition under the current claim is the right wrist enthesopathy. The decision on appeal dated March 3, 2014 is limited to a claim for disability related to that condition.

As to appellant's claim for wage loss she claimed two days of disability on September 23 and 24, 2010. She returned to light duty and then claimed disability commencing December 22, 2010 to February 8, 2011. It is appellant's burden of proof to establish the dates of disability claimed.

With respect to September 23 and 24, 2010, Dr. Winn listed in the September 22, 2010 Form CA-17 and a note that appellant should be off work through September 27, 2010. He provided little relevant detail with respect to the stated conclusion. There is only a brief history, little discussion of examination findings and no medical reasoning with respect to the inability to perform appellant's job duties. The Board has held an opinion on a form medical report, without additional explanation or rational is of dismissed probative value.<sup>12</sup> The Board finds the evidence from Dr. Winn is not sufficient to establish an employment-related disability for the dates claimed.

Appellant returned to a light-duty job and then stopped work on December 22, 2010. Again the evidence from Dr. Schumann is of limited probative value. Dr. Schumann reported that she was unable to work, without providing a complete medical background, results on examination or supporting explanation. In a May 24, 2011 report, he briefly stated that appellant was disabled from December 22, 2010 due to a right hand injury, but stated on May 26, 2011 that she was disabled due to a bilateral condition. To the extent that he related an aggravation of appellant's condition due to the light-duty job duties, this would be a basis for a new injury claim.<sup>13</sup> For these reasons, the Board finds that appellant did not establish her disability for the period claimed due to the accepted right wrist enthesopathy.

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.

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<sup>10</sup> *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>11</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>12</sup> See *Deborah L. Beatty*, 54 ECAB 340 (2003).

<sup>13</sup> See *Linda Beale*, Docket No. 97-1606 (issued May 6, 1999) (an injury resulting from light-duty job activities is a claim for a new injury).

On appeal, appellant refers to the medical evidence and noted that she has two case files, which caused confusion. The decision on appeal is limited to the accepted right wrist condition. For the reasons discussed, appellant has not established an employment-related disability for the periods claimed. She may, as noted, pursue a claim for disability resulting from a bilateral wrist condition under the claim filed on January 20, 2011.

**CONCLUSION**

The Board finds that appellant has not established an employment-related disability from September 23 to 24, 2010 or December 22, 2010 to February 8, 2011.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 3, 2014 is affirmed.

Issued: September 3, 2014  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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