

soreness, muscle spasms, and numbness. Appellant advised that she first became aware of her condition and its relation to her federal employment on June 3, 2003. The employing establishment advised that she gave her supervisor notice of her condition on November 21, 2014. Appellant did not stop work and continued in her position as a rural carrier.

In a November 24, 2014 statement accompanying the claim, appellant advised that her position required repetitive movements including, lifting mail, driving four to five hours a day requiring her to turn her neck and shoulders often, entering and exiting her postal vehicle, going up and down hills carrying parcels of mail, and walking up and down a ramp to enter and exit the post office. She also advised that she fell on the dock at work on January 31, 2014.

By letter dated December 1, 2014, the employing establishment controverted appellant's claim arguing that most of her conditions were due to age-related degenerative changes or due to nonwork factors. Appellant and the employing establishment provided numerous medical documents pertaining to a variety of medical conditions since 2003.

By letter dated December 3, 2014, OWCP advised appellant of the deficiencies in her claim. Appellant was instructed to submit a questionnaire establishing the factual element of her claim and was advised of the type of medical evidence needed.

In an undated statement, appellant related that lifting, casing mail, stretching, reaching, driving, delivering parcels, and turning her neck and head aggravated her condition. She further noted that she did not have any hobbies or engage in any recreational activities. Appellant also provided medical evidence that included a December 16, 2014 report from Dr. Nolan Hudson, a Board-certified internist, who noted treating her for neck, back, and knee pain that was aggravated by her work duties.

By decision dated January 8, 2015, OWCP denied appellant's occupational disease claim as untimely. It found that she did not file her claim within three years of her date of injury, June 3, 2003, nor did she notify her immediate supervisor within 30 days of her date of injury.

On appeal appellant argued that her date of injury was May 15, 2013 not June 18, 2003. She noted that her physician diagnosed chronic neck, back, and knee pain that was aggravated by her duties at work. Appellant argued that she gave her supervisor notice of a January 2014 fall at work, but she was not given medical attention. She further noted that her pain increased significantly following her 2014 fall.

LEGAL PRECEDENT

Section 8122(a) of FECA provides that an original claim for compensation for disability or death must be filed within three years after the injury or death.² Section 8122(b) provides that, in latent disability cases, the time limitation does not begin to run until the claimant is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship between the employment and the compensable disability.³ The Board has held that,

² *Id.* at § 8122(a).

³ *Id.* at § 8122(b).

if an employee continues to be exposed to injurious working conditions after such awareness, the time limitation begins to run on the last date of this exposure.⁴ Even if a claim is not timely filed within the three-year period of limitation, it would still be regarded as timely under section 8122(a)(1) if the immediate superior had actual knowledge of his or her alleged employment-related injury within 30 days or written notice of the injury was provided within 30 days pursuant to section 8119.⁵ The knowledge must be such as to put the immediate superior reasonably on notice of an on-the-job injury or death.⁶ The Board has indicated that an employee need only be aware of a possible relationship between his or her “condition” and his or her employment to commence the running of the applicable statute of limitations.⁷

In a case of occupational disease, the time for filing a claim begins to run when the employee first becomes aware or reasonably should have been aware, of a possible relationship between his condition and his employment. When an employee becomes aware or reasonably should have been aware that he or she has a condition which has been adversely affected by factors of his or her federal employment, such awareness is competent to start the limitation period even though the employee does not know the precise nature of the impairment or whether the ultimate result of such affect would be temporary or permanent.⁸ Where the employee continues in the same employment after he or she reasonably should have been aware that she has a condition which has been adversely affected by factors of federal employment, the time limitation begins to run on the date of the last exposure to the implicated factors.⁹

ANALYSIS

The Board finds that appellant has established that she filed a timely claim for compensation under the three-year time limitation of section 8122 of FECA.

In a notice of occupational disease (Form CA-2), appellant advised that she became aware of her condition and its relation to her federal employment on June 3, 2003. Although she did not file her claim or give notice to her supervisor until 11 years later, she continued her work as a rural carrier. Appellant claimed that her duties of lifting, casing mail, stretching, reaching, driving, delivering parcels, and turning her neck and head aggravated her condition. As noted, the Board has held that, if an employee continues to be exposed to injurious working conditions, the time limitation begins to run on the last date of this exposure.¹⁰

⁴ See *Linda J. Reeves*, 48 ECAB 373 (1997).

⁵ 5 U.S.C. §§ 8122(a)(1); 8122(a)(2); see also *Larry E. Young*, 52 ECAB 264 (2001).

⁶ *Willis E. Bailey*, 49 ECAB 511 (1998).

⁷ *Edward C. Hornor*, 43 ECAB 834, 840 (1992).

⁸ *Larry E. Young*, *supra* note 5.

⁹ *Id.*

¹⁰ See *id.*; see also *Garyleane A. Williams*, 44 ECAB 441 (1993).

Because appellant has filed a timely claim for compensation, the case is remanded to OWCP to further develop and adjudicate the claim. Following this and any other development that it deems necessary, OWCP shall issue a *de novo* decision in the case.

CONCLUSION

The Board finds that appellant's claim was timely filed.

ORDER

IT IS HEREBY ORDERED THAT the January 8, 2015 decision of the Office of Workers' Compensation Programs is reversed and the case is remanded to OWCP for further development consistent with this decision and order.

Issued: August 17, 2015
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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