

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

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T.K., Appellant	)	
	)	
and	)	<b>Docket No. 15-1300</b>
	)	<b>Issued: August 25, 2015</b>
<b>DEPARTMENT OF THE INTERIOR,</b>	)	
<b>NATIONAL PARK SERVICE,</b>	)	
<b>San Francisco, CA, Employer</b>	)	

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*Appearances:* *Case Submitted on the Record*  
Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On May 26, 2015 appellant, through counsel, timely appealed the April 8, 2015 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 the claim.

**ISSUE**

The issue is whether appellant sustained a traumatic injury in the performance of duty on March 1, 2014.

**FACTUAL HISTORY**

Appellant, a 54-year-old maintenance worker, filed a traumatic injury claim (Form CA-1) alleging that on March 1, 2014 he injured both hands while repairing a cyclone fence. At the time, he was working on a storm-damaged metal fence post using a power grinder and a hand

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

sledgehammer.<sup>2</sup> Appellant reported experiencing a painful popping sensation and weakness in both hands. He described his condition as an undiagnosed bilateral hand injury involving the ring and middle fingers of both hands. Appellant's reported symptoms included pain and weakness while gripping, pain on flexion of his fingers, and involuntary locking of his fingers in a closed position.

Dr. Basil R. Besh, a Board-certified orthopedic surgeon with a subspecialty in hand surgery, examined appellant on April 1, 2014. He diagnosed bilateral third and fourth digit stenosing tenosynovitis. Dr. Besh noted that appellant was a right hand dominant maintenance worker and that he had a four-year history of intermittent locking and triggering of the bilateral third and fourth digits. He previously treated appellant for that condition on January 11, 2011. Prior treatment had included cortisone injections, which reportedly provided significant relief of symptoms. Dr. Besh described the January 2011 injury as work related. However, appellant had not filed a claim. Currently, he complained of significant worsening of his symptoms with locking and triggering, including locked trigger fingers early in the morning. Appellant reported that it took several minutes before he was able to extend his fingers. His April 1, 2014 physical examination revealed significant tenderness with palpable nodules over the third and fourth digits and active locking and triggering. Dr. Besh recommended staged bilateral third and fourth digit A1 pulley excisions and appellant agreed to have the procedures. Regarding causation, he stated that appellant's injury was "consistent with one that has arisen out of employment and in the course of employment."

In a June 18, 2014 decision, OWCP denied appellant's claim because the medical evidence did not establish a causal relationship between the accepted employment incident and his diagnosed condition. Although Dr. Besh indicated that appellant's condition was consistent with an employment-related injury, he did not identify any work factors or explain how the March 1, 2014 employment incident either caused or contributed to appellant's bilateral third and fourth digit stenosing tenosynovitis.

Counsel timely requested reconsideration. He submitted an October 2, 2014 report from Dr. John W. Ellis, a Board-certified family practitioner. Dr. Ellis diagnosed bilateral carpal tunnel syndrome, bilateral wrist tendinitis, bilateral cubital tunnel syndrome, right medial epicondylitis, and bilateral middle and ring trigger fingers. He found that all of the diagnosed conditions were employment related.

Dr. Ellis reported that appellant had no difficulty with his elbows, hands, or fingers when he went to work in 2010, and where he was employed as a maintenance worker.<sup>3</sup> He further noted that appellant's duties entailed a lot of heavy manual labor, a lot of gripping of tools, and use of vibratory tools, grinders, reciprocating saws, post hole diggers, post drivers, and lock bar. Dr. Ellis indicated that approximately three months after appellant started working, his middle and ring fingers on both hands made it difficult for him to tie trash bags. At the time, he was wearing Kevlar gloves and his fingers began to trigger. Dr. Ellis reported that over the next year,

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<sup>2</sup> The sledgehammer weighed approximately three and a half pounds and had a 14 inch wooden handle. Appellant reported that he used the power grinder off and on for approximately 30 minutes, and he used the sledgehammer intermittently with the grinder during the first 10 to 15 minutes.

<sup>3</sup> Earlier in his report, Dr. Ellis correctly identified the "National Park Service" (NPS) as appellant's employer.

appellant had pain in his wrists with numbness in his ring and little fingers, as well as some numbness in his thumb, index and middle fingers. The pain awakened him at night. Appellant also experienced some pain in the medial aspect of the right elbow. When appellant stopped wearing the Kevlar gloves, he reportedly had some improvement with tingling from his elbows, hands, and into his fingers. Appellant also had some improvement with the triggering.

Dr. Ellis also reported an April 2011 right shoulder injury while appellant was trying to lift a trash bag with both hands. Appellant reported feeling a popping sensation in his right shoulder, and since then he had pain which radiated from his shoulder down into the right hand. Dr. Ellis noted that appellant favored his right shoulder. Because of this appellant felt greater pain in his left shoulder. Additionally, Dr. Ellis reported that appellant was building a deck at an NPS facility in 2012, and while using a hammer drill, he experienced more triggering of the middle, ring, and little fingers of both hands. Appellant last worked on June 1, 2014, and had not done any type of strenuous work since. Dr. Ellis noted that appellant continued to have symptoms in his elbows, wrists, and middle and ring fingers of both hands.

According to Dr. Ellis, it was more probable than not that appellant's various upper extremity conditions were employment related. He explained that appellant's work at NPS, especially the gripping of vibrating tools and use of Kevlar gloves, resulted in thickening of the tendons in the palms of his hands, which in turn caused triggering of the middle and ring fingers of both hands. Dr. Ellis further explained that the tight tendons that traverse through appellant's palm actually insert on the elbows, which caused medial epicondylitis in both elbows, and the medial epicondylitis caused the tendons on the medial aspect of the elbows to become hypertrophied, which then pinched the ulnar nerve at the elbows causing bilateral cubital tunnel syndrome. Finally, he explained that the tight muscles and ligaments in appellant's hands from using tools caused tendinitis of the palmar tendons in his wrists, which caused impingement of the median nerves resulting in bilateral carpal tunnel syndrome.

By decision dated April 8, 2015, OWCP reviewed the merits of appellant's claim, but denied modification of its June 18, 2014 decision. It found Dr. Ellis' October 2, 2014 report insufficient to establish a causal relationship between appellant's diagnosed conditions and the March 1, 2014 employment incident.

### **LEGAL PRECEDENT**

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.<sup>4</sup>

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>5</sup> The second component is whether the employment incident caused a

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<sup>4</sup> 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>5</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

personal injury.<sup>6</sup> An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.<sup>7</sup>

### ANALYSIS

Appellant claimed to have suffered a bilateral hand injury on March 1, 2014 while repairing a cyclone fence. He stated that he had been using a power grinder and a hand sledgehammer to repair a metal fence post when he experienced a painful popping sensation and weakness in both hands. On the March 4, 2014 claim (Form CA-1), appellant described his condition as an undiagnosed bilateral hand injury involving the ring and middle fingers of both hands. When Dr. Besh examined appellant on April 1, 2014, he diagnosed bilateral third and fourth digit stenosing tenosynovitis. He reportedly made the same diagnosis when he previously treated appellant in January 2011. Dr. Besh indicated that appellant's bilateral hand condition was employment related.

OWCP accepted the March 1, 2014 employment incident. Additionally, it acknowledged Dr. Besh's diagnosis of bilateral third and fourth digit stenosing tenosynovitis. However, OWCP initially denied the claim because he had not cited any work factors and particularly failed to discuss the March 1, 2014 employment incident. Dr. Besh also had not explained how appellant's bilateral hand condition was employment related. OWCP properly found that it was not enough to simply conclude that the diagnosed condition was employment related. A physician's opinion on causal relationship must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.<sup>8</sup> Consequently, Dr. Besh's April 1, 2014 opinion will not suffice for purposes of establishing a causal relationship between appellant's diagnosed condition and his accepted employment exposure.

In his October 2, 2014 report, Dr. Ellis diagnosed bilateral carpal tunnel syndrome, bilateral wrist tendinitis, bilateral cubital tunnel syndrome, right medial epicondylitis, and bilateral middle and ring trigger fingers. He explained that appellant's work at NPS, especially the gripping of vibratory tools and use of Kevlar gloves, resulted in hypertrophy and thickening of the tendons in the palms of his hands, which in turn caused triggering of the middle and ring fingers of both hands. Dr. Ellis also explained how the hand injury affected appellant's wrists and elbows, causing both carpal tunnel syndrome and cubital tunnel syndrome. However, he made no reference to the March 1, 2014 employment incident. A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated

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<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989). Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s). *Id.*

<sup>7</sup> *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

<sup>8</sup> *Victor J. Woodhams*, *supra* note 6.

employment factors must be based on a complete factual and medical background.<sup>9</sup> Dr. Ellis did not specifically address how appellant's March 1, 2014 use of a power grinder and a hand sledgehammer for approximately 30 minutes resulted in what appellant described as a painful popping sensation and weakness in both hands. Accordingly, OWCP properly found his October 2, 2014 opinion insufficient to warrant modification of its June 18, 2014 decision.

The Board finds that the current medical evidence of record fails to establish a causal relationship between the March 1, 2014 employment incident and appellant's claimed traumatic bilateral hand conditions.

**CONCLUSION**

Appellant failed to establish that he sustained an injury in the performance of duty on March 1, 2014.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 8, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 25, 2015  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>9</sup> *Id.*