

– departing vehicle and lifting large loads of mail and driving and twisting.” Appellant stopped work on June 16, 2014.²

In a June 16, 2014 report, Dr. Keith Wolfe, an attending Board-certified family practitioner, related appellant’s account of the onset of bilateral upper extremity numbness and bilateral knee pain. Appellant could “not recall any inciting event.” She awoke on June 15, 2014 with left hand pain, swelling, and numbness. Dr. Wolfe noted a history of shoulder pain, right ulnar nerve damage with surgical repair, and right de Quervain’s tenosynovitis. Appellant had normal gait, diminished grip strength in the left hand, a positive Spurling’s sign on the right, and a positive Tinel’s sign on the left. Dr. Wolfe diagnosed cervicalgia. He recommended imaging studies to ascertain whether appellant “might have slipped a disc while delivering mail yesterday.”³ Dr. Wolfe held her off work.

On July 2, 2014 Dr. Wolfe noted that although appellant had a history of a right upper extremity injury, the numbness that began on June 15, 2014 was new. Appellant’s left upper extremity symptoms were intermittent. Dr. Wolfe related that she used her own vehicle to deliver her route. Appellant sat “in the middle of her car so that she can deliver mail and drive at the same time. She thinks her new numbness in her arms might be from work.” Dr. Wolfe diagnosed an intervertebral cervical disc with myelopathy. He recommended a neurosurgical evaluation as appellant continued to have a positive Spurling’s sign. Dr. Wolfe held her off work indefinitely.⁴

In an August 13, 2014 letter, OWCP advised appellant of the additional evidence needed to establish her claim, including a detailed description of the work factors she believed caused or contributed to the injury, and a report from her attending physician explaining how and why those factors would cause the claimed injury. It afforded appellant 30 days to submit additional evidence.

In response, appellant provided a September 3, 2014 narrative statement, describing the sudden onset of bilateral upper extremity numbness, swelling, and pain while delivering mail on June 14, 2014. She noted that she sat in the middle seat of her vehicle while driving her route. Appellant also provided an August 4, 2014 thyroid sonogram that showed moderate enlargement of the right lobe.⁵

² Two of appellant’s coworkers provided June 20 and 23, 2014 statements asserting that on June 14, 2014, they asked appellant how her deliveries went and she did not report an injury. A third coworker noted in a June 20, 2014 statement that on June 17, 2014, appellant stated that she “hurt her back somehow” on June 14, 2014 and wished to file a claim. A fourth coworker commented on June 23, 2014 that rural carrier associates received training in safe lifting techniques.

³ June 23, 2014 cervical x-rays showed multilevel degenerative changes and right-sided stenosis at C3-4. A June 30, 2014 cervical magnetic resonance imaging (MRI) scan of the cervical spine showed multilevel degenerative disc disease with spondylolisthesis and spurring at C3-4, and a C6-7 disc herniation.

⁴ A July 14, 2014 nerve conduction study showed mild bilateral C6-7 pathway involvement and minimal median nerve entrapment at the left wrist.

⁵ Appellant also submitted copies of reports previously of record.

By decision dated September 8, 2014, OWCP denied appellant's claim, finding that causal relationship had not been established. It accepted that on June 14, 2014, she drove her delivery route and lifted large loads of mail, and that these activities involved twisting. However, OWCP found that the medical evidence did not contain sufficient rationale supporting a causal relationship between the accepted work factors and the claimed injury.

In a September 15, 2014 letter, received on September 29, 2014 appellant requested reconsideration. She submitted a September 22, 2014 report from Dr. Wolfe noting the June 15, 2015 onset of left upper extremity paresthesias and weakness. Dr. Wolfe related that appellant had "persistent right upper extremity pain and numbness, but this [wa]s from a prior injury." He opined that the C6-7 disc herniation observed on imaging studies caused the neuropathy evident on electromyogram study. Dr. Wolfe opined that appellant would likely require surgery. He opined that he could not "definitively state that these symptoms developed due to appellant's job function as a postal worker. Given the timeline of events that correlate with her working hours, [he could] only speculate that some maneuver she performed during her employment caused the disc herniation which resulted in symptoms that remain."

By decision dated December 24, 2014, OWCP denied modification of its prior decision, finding that the additional evidence submitted was insufficient to establish causal relationship. It found that Dr. Wolfe's September 22, 2014 report was speculative, and that he admitted that he could not state definitively if appellant's condition was work related.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁶ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁷

In order to determine whether 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 conjunctively. First, the employee must submit sufficient evidence to establish that he or she actually experienced the alleged employment incident.⁸ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁹

⁶ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁷ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁸ *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *Deborah L. Beatty*, 54 ECAB 340 (2003).

ANALYSIS

Appellant claimed that on June 14, 2014 she sustained unspecified injuries causing stiffness, numbness, and swelling of the upper extremities while delivering mail. She asserted that lifting, twisting, and driving caused a C6-7 disc herniation. OWCP accepted that the identified work factors occurred as alleged.

Dr. Wolfe, an attending Board-certified family practitioner, opined that appellant “might have slipped a disc while delivering mail” on June 16, 2014. He acknowledged that he could not state definitively that appellant’s C6-7 disc herniation with neuropathy was related to work factors. The equivocal nature of his opinion greatly reduces its probative value in establishing causal relationship.¹⁰

Dr. Wolfe also opined that as appellant’s symptoms began while she was at work, he could “speculate that some maneuver [appellant] performed” caused the herniated cervical disc. However, the Board has held repeatedly that a temporal relationship alone is insufficient to establish causal relationship.¹¹

OWCP advised appellant by August 13, 2014 letter of the necessity of submitting her physician’s statement explaining how and why the accepted work factors would cause the claimed cervical spine injury. As appellant’s physician only provided equivocal support for causal relationship, OWCP’s December 24, 2014 decisions denying her claim are proper under the law and facts of the case.

On appeal, appellant argues that the claimed injury occurred as alleged. She attributes her condition to turning, twisting, lifting, and dismounting her vehicle while delivering mail. Appellant contends that Dr. Wolfe could not “definitively say this because there was nobody with [her] but also [stated] the timeline of events [and] work hours” supported that she sustained the injury at work. As stated above, a temporal relationship alone is insufficient to establish that work factors caused the claimed injury.

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 established that she sustained a traumatic cervical spine injury as alleged.

¹⁰ *Ricky S. Storms*, 52 ECAB 349 (2001).

¹¹ *Louis R. Blair, Jr.*, 54 ECAB 348 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 24, 2014 is affirmed.

Issued: June 18, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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