

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

D.N., Appellant)

and)

DEPARTMENT OF VETERANS AFFAIRS,)
HEALTH RESOURCE CENTER, Topeka, KS,)
Employer)

Docket No. 15-1737
Issued: November 25, 2015

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

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 27, 2015 appellant filed a timely appeal from a June 11, 2015 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.²

ISSUE

The issue is whether appellant has met her burden of proof to establish a right thumb condition causally related to the accepted factors of her federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² Appellant submitted new medical evidence with her appeal. The Board, however, has no jurisdiction to review new evidence on appeal; *see* 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On September 23, 2014 appellant, then a 57-year-old contact representative, filed an occupational disease claim (Form CA-2) alleging that she developed radial tenosynovitis of her right thumb as a result of repetitive motion at work. She first became aware of her condition on September 1, 2014 and realized that it resulted from her employment on September 19, 2014. Appellant explained that on approximately September 1, 2014 she began to experience pain in the bottom joint of her right thumb close to her wrist. The pain began to spread and her thumb became swollen and sore to the touch second days later. Appellant stated that on September 19, 2014 she saw her primary care provider who checked her arm and neck to verify that the problem with her thumb was not connected with other ongoing conditions. She noted that her physician diagnosed tenosynovitis. Appellant reported that she had no hobbies or activities outside of her employment other than general house work and watching sports activities with children.

Appellant described her job duties as entering prescriptions for renewals and refills into the computer, responding and resolving customer complaints, submitting prescription renewal requests to doctors, tracking status of veterans' prescriptions, verifying upcoming appointments for veterans, mentoring new employees, and acting as a liaison between patients, pharmacy, and primary care team. She listed the dates that she used leave without pay. Appellant noted that she had carpal tunnel surgery on both her hands in approximately 1998. She submitted a position description for a contact representative.

In September 19 and October 9, 2014 reports, Dr. Timothy Martindale, a Board-certified family practitioner, related that he examined appellant for complaints of right thumb pain. He noted that she worked for the employing establishment as a contact representative. Dr. Martindale diagnosed right hand and thumb radial tenosynovitis caused by repetitive overuse of the right hand with work activities of typing and computer and mouse use. He advised appellant that six weeks off of work was needed for complete rest in order to restore function as an employee.

By letter dated October 15, 2014, OWCP advised appellant that the evidence submitted was insufficient to establish her occupational disease claim. It requested additional evidence to establish that she experienced the factors of employment as alleged and that she sustained a diagnosed condition causally related to her employment.

Dr. Martindale continued to treat appellant and reported in a December 11, 2014 note that appellant had decreased range of motion of the right wrist and tenderness with range of motion. He observed no edema or varicosities in the extremities. Dr. Martindale diagnosed radial styloid tenosynovitis. He reported that the pain was related to work overuse with "constant computer work, with mouse and typing." Dr. Martindale explained that appellant was not able to work at that time due to the immediate return of pain with any computer work.

In a decision dated January 23, 2015, OWCP denied appellant's claim because the evidence was insufficient to establish fact of injury. It found that she submitted insufficient evidence to support that she experienced the employment factors as described or that she sustained a diagnosed condition causally related to her employment.

On March 6, 2015 OWCP received appellant's request for a review of the written record by an OWCP hearing representative. Appellant described her employment duties as typing and documenting calls from veterans and representatives. She explained that she used two monitors, one for documenting the call and the other for reviewing the veterans' profile, in order to document the entire conversation to the fullest. Appellant noted that during each call she would type and move the mouse from one monitor to the other and from one document to the other. She stated that the activity was performed for seven hours a day, five days a week. Appellant answered over 9,000 calls last year and spent approximately three to six minutes documenting each call. She reported that she did not engage in any sports, play any musical instruments, or engage in any computer activities outside of her job.

Regarding her medical condition, appellant explained that she first noticed her condition on September 1, 2014 when her right thumb "popped" any time she moved it and she experienced considerable pain. She stated that within a few days she could not bend her thumb at all and the knuckle was "frozen" in the open position. Appellant related that she had no strength in her thumb and had to use a hand brace. She reported that she was not diagnosed with any other condition concerning her thumb, hand, or wrist.

Appellant also submitted a January 22, 2015 attending physician's report from Dr. Martindale. Dr. Martindale noted a history of injury of increasing pain and decreased mobility in appellant's right thumb, hand, and wrist. He reported examination findings of right thumb inflammation, decreased range of motion, and increased pain. Dr. Martindale diagnosed radial styloid tenosynovitis. He checked a box marked "No" that there was no history or evidence of preexisting injury or disease. Dr. Martindale also indicated "Yes" that appellant's condition was caused or aggravated by an employment activity. He explained that she did constant computer work with the mouse and noted that typing caused overuse. Dr. Martindale reported that appellant was unable to work beginning September 1, 2014 and that he was unsure about when she could return to work.

By decision dated June 11, 2015, an OWCP hearing representative affirmed the October 15, 2014 decision, with modification. She accepted that appellant had established repetitive employment duties as a contact representative, but denied her claim on the basis of insufficient medical evidence to establish that her right thumb condition was casually related to her employment duties.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence³ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁴ In an occupational disease claim, appellant's burden requires

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁴ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁶ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.⁷

ANALYSIS

Appellant alleged that she developed radial tenosynovitis of her right thumb as a result of her repetitive duties as a contact representative. OWCP accepted that she experienced the repetitive duties of her job that she alleged. The Board finds, however, that appellant did not meet her burden of proof to establish that her right thumb condition was causally related to the accepted factors of her employment.

Appellant received medical treatment from Dr. Martindale. In his reports from September 19 to December 11, 2014, Dr. Martindale noted that she worked for the employing establishment as a contact representative. He reported findings of decreased range of motion of the right wrist and tenderness with range of motion. Dr. Martindale diagnosed right hand and thumb radial tenosynovitis caused by repetitive overuse of the right hand with work activities of typing and computer and mouse use. In a January 22, 2015 attending physician's report, he provided a history of injury of increasing pain and decreased mobility in appellant's right thumb, hand, and wrist. Dr. Martindale provided examination findings and checked a box indicating that her condition was caused or aggravated by an employment activity. He explained that appellant was subject to constant computer work with the mouse and noted that typing caused overuse. Dr. Martindale advised that appellant was unable to work beginning September 1, 2014 and that he was unsure about when she could return to work.

The Board notes that Dr. Martindale accurately described appellant's employment activities and provided findings on examination. Dr. Martindale diagnosed right hand and thumb tenosynovitis and opined that it was caused by overuse of the right hand. Although he provides an opinion on causal relationship he does not offer any medical rationale explaining how activities such as typing and working with the mouse resulted in appellant's right thumb condition. The Board has found that medical evidence that states a conclusion but does not offer any rationalized medical explanation regarding the cause of an employee's condition is

⁵ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁶ *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

of limited probative value on the issue of causal relationship.⁸ Dr. Martindale did not pathophysiologically explain how appellant's employment duties as a contact representative caused or contributed to her right thumb injury.⁹ He merely attributes appellant's condition to "repetitive overuse of the right hand" with typing and mouse work without any medical rationale.

Causal relationship is a medical question that must be established by probative medical opinion from a physician.¹⁰ The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.¹¹ Because appellant failed to provide rationalized probative medical opinion, the Board finds that OWCP properly denied her 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 failed to establish that her right thumb condition was causally related to the accepted factors of her federal employment.

⁸ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

⁹ *See B.T.*, Docket No. 13-138 (issued March 20, 2013).

¹⁰ *W.W.* Docket No. 09-1619 (June 2010); *David Apgar*, 57 ECAB 137 (2005).

¹¹ *Patricia J. Bolleter*, 40 ECAB 373 (1988).

ORDER

IT IS HEREBY ORDERED THAT the June 11, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 25, 2015
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board