

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

D.B., Appellant)	
)	
and)	Docket No. 15-1501
)	Issued: October 19, 2015
DEPARTMENT OF THE AIR FORCE, OGDEN)	
UTAH -- OAMA, RANDOLPH AIR FORCE)	
BASE, TX, Employer)	

Appearances:
Lenin Perez, for the appellant
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 6, 2015 appellant, through his representative, filed a timely appeal from a June 8, 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 met his burden of proof to establish bilateral hand and elbow injuries as a result of his federal employment duties.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant has two other occupational disease claims which are currently on appeal before the Board, claim File Nos. xxxxxx967 (Docket No. 15-1506) and xxxxxx820 (Docket No. 15-1507). The findings in this claim, File No. xxxxxx584, pertain to appellant's bilateral hand and elbow injuries only.

FACTUAL HISTORY

On April 21, 2014 appellant, then a 60-year-old sheet metal mechanic, filed an occupational disease claim (Form CA-2) alleging that he developed significant arthritic changes involving his hands and elbows, as well as possible carpal tunnel and cubital tunnel syndrome as a result of his federal employment duties. He stated that working with power tools and other vibrating equipment caused him Raynaud's disease and great pain. Appellant first became aware of his condition on January 2, 2000 and of its relationship to his employment on January 10, 2014³ when he first sought medical treatment. The claim form did not reflect whether he stopped work. In support of his claim, appellant submitted an official position description for a sheet metal mechanic.

By letter dated May 9, 2014, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised of the factual and medical evidence needed and was asked to respond within 30 days.

By letter dated May 12, 2014, the employing establishment controverted the claim. Notification of Personnel Action (SF-50) forms and official position descriptions were submitted noting that appellant began working as a sheet metal mechanic on May 13, 1985.

In a May 16, 2014 narrative statement, appellant provided detailed description of his employment duties and the tools he used. He stated that he worked full time Monday through Thursday, 10 hours daily. Appellant stated that he was constantly exposed to harmful chemicals and used pneumatic tools which were heavy, loud, and vibrated in his hands. His duties also entailed going up and down stairs, lifting heavy equipment, bending, stooping, twisting, and turning. Appellant stated that his employment duties resulted in his injuries which forced him to start cutting back his hours. He provided official position descriptions, pictures of the tools he used, and explanations pertaining to the frequency and mechanics of each task performed.

In a May 21, 2014 medical report, Dr. Jeffery Lee DeGrauw, Board-certified in family medicine, reported that appellant had been his patient for several years and was permanently disabled. He noted that in January 2014 appellant was diagnosed with Alzheimer's-type dementia. Dr. DeGrauw speculated that his dementia could be related to exposure from hazardous work chemicals. He noted that appellant experienced numbness, tingling, and pain involving the tips of his fingers and earlobes and was diagnosed with Raynaud's syndrome in March 2011. Dr. DeGrauw reported that appellant had no prior similar symptoms and opined that Raynaud's syndrome was caused by the use of pneumatic tools. He further noted that continual use of these pneumatic tools could eventually lead to amputation of his fingers due to its effect on circulation.

Dr. DeGrauw further diagnosed chronic degenerative joint disease in multiple areas of the body including lower back, upper back, neck, shoulders, wrists, and elbows which stemmed as far back as 1987. He explained that appellant's work as a sheet metal mechanic for the past

³ By letter dated May 19, 2014, appellant informed OWCP that he mistakenly noted January 2, 2000 as the date he became aware that his condition was caused by his employment. He stated that the correct date was January 10, 2014.

30 years involved lifting heavy items weighing 150 to 175 pounds, frequent bending and stooping approximately at 80 degree angles for 70 to 80 percent of the day, and frequent bending over using pneumatic bands to apply sheet metal. Dr. DeGrauw noted that the repetitive heavy lifting involved multiple aspects of his body including his lower back, upper back, neck, shoulders, wrists, and elbows.

Dr. DeGrauw further diagnosed tendinitis and carpal tunnel syndrome in the hands and elbows stemming back to 2013. He explained that appellant's job involved gripping and handling tools 100 percent of the time. Dr. DeGrauw further noted issues with chronic migraine and tension headaches. He reported that, over the past several years, appellant had been seen and treated for the various above-mentioned illnesses by neurology, orthopedics, and primary care physicians which were too numerous to be documented. Dr. DeGrauw concluded that appellant was unable to work and was permanently disabled.

Documentation was also provided dated July 16, 2014 indicating that appellant was separated from his employment, effective July 25, 2014, due to his physical inability to perform the duties of a sheet metal mechanic.

By decision dated July 31, 2014, OWCP denied appellant's claim as the evidence was insufficient to establish an injury. It found that the work-related exposure occurred as alleged; however, that the evidence failed to provide a firm medical diagnosis which could be reasonably attributed to the accepted employment duties.

On August 6, 2014 appellant requested an oral hearing before an OWCP hearing representative. An authorization form allowing Lenin Perez of Federal Workers' Compensation Consultants to represent him in his claim was also submitted.

In support of his claim, appellant submitted a January 27, 2015 medical report from Dr. DeGrauw. Dr. DeGrauw reported that appellant presented with tendinitis, shoulder pain, and follow-up regarding multiple medical concerns. He noted that appellant was limited due to chronic pain and immobility involving his hands, elbows, and neck with resulting paresthesia. Dr. DeGrauw was further limited from standard activities like typing or fine motor motion due to his radiculopathy of the neck and arthralgia. He noted "chronic pain and tenderness involving the fingertips from a syndrome or not his disease associated with vibratory activities." Dr. DeGrauw also reported that appellant was hard of hearing as a result of his loud work environment and disabled due to progressive Alzheimer's-type dementia, the cause of which was unconfirmed as being chemical or environmental exposure related. He found appellant to be permanently disabled based on repetitive on ongoing physical examination history. Dr. DeGrauw provided findings on physical examination and noted a history of sinus surgery in 2001 and 2003, as well as bilateral shoulder surgery in 2013. He diagnosed cervicalgia stemming back to November 14, 2007 and opined that appellant's neck pain was related to abnormal exposures associated with work. Dr. DeGrauw also diagnosed Alzheimer's dementia and generalized degenerative joint disease of the hand, noting severe limitations of functional ability with his upper extremities.

A hearing was held on March 20, 2015. At the hearing, appellant testified regarding his federal employment and the work exposure. He noted that he was a sheet metal mechanic since

1984 and worked on aircraft parts which entailed drilling, grinding, riveting, using a hammer and center punches, and constant heavy lifting and bending. Appellant would lift debris, clamps weighing approximately 12 pounds, and stabilizers weighing approximately 175 pounds with assistance. His work entailed bending all day long, using pneumatic tools, clamps and rivets, and drill motors. Appellant argued that the constant daily use of gripping tools, rivets, and drills caused repetitive injury to his fingers and hands as well as numbness and tingling. He explained that his physicians diagnosed him with Raynaud's syndrome, arthritis, and carpal tunnel syndrome. Appellant further indicated that he also filed a claim for radiculopathy due to bending, stooping, and twisting daily and believed he had developed numerous medical conditions as a result of his federal employment duties.

By decision dated June 8, 2015, OWCP hearing representative affirmed the July 31, 2014 decision finding that appellant had failed to establish a firm medical diagnosis which could be reasonably attributed to the accepted federal employment duties.

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 or specific condition for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.⁵

In order to determine whether an employee actually sustained an 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 which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁶ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (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.⁷

⁴ Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

⁵ Michael E. Smith, 50 ECAB 313 (1999).

⁶ Elaine Pendleton, *supra* note 4.

⁷ See Roy L. Humphrey, 57 ECAB 238, 241 (2005); Ruby I. Fish, 46 ECAB 276, 279 (1994).

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁹

ANALYSIS

OWCP accepted that appellant engaged in repetitive activities involving use of power tools and vibrating equipment as a sheet metal mechanic. The issue, therefore, is whether he submitted sufficient medical evidence to establish that the employment exposure caused bilateral hand and elbow injuries. The Board finds that appellant has failed to submit sufficient medical evidence to support that bilateral hand and elbow conditions were causally related to factors of his federal employment as a sheet metal mechanic.¹⁰

In support of his claim, appellant submitted medical reports dated May 21, 2014 and January 27, 2015 from Dr. DeGrauw. The Board notes that he is only alleging bilateral hand and elbow injuries in this occupational disease claim File No. xxxxxx584. Appellant has alleged that the use of vibratory tools and repetitive grasping of tools at work caused Raynaud's syndrome, carpal tunnel syndrome, and arthritis in the hands and elbows. These related to other conditions not claimed as work related in this claim are thus irrelevant and of no probative value to the issue of whether her hand and elbow injuries are caused by his occupational employment duties.

In his May 21, 2014 report, Dr. DeGrauw provided various diagnoses including Alzheimer's-type dementia, Raynaud's syndrome, chronic degenerative joint disease in multiple areas of the body including the lower back, upper back, neck, shoulders, wrists, and elbows, tendinitis and carpal tunnel syndrome in the hands and elbows, and chronic migraine and tension headaches.

The Board finds that Dr. DeGrauw's report is insufficient to establish that appellant's bilateral hand and elbow injuries were caused by his federal employment duties.¹¹ Dr. DeGrauw failed to provide a detailed medical history, review of diagnostic reports, or findings on physical

⁸ See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁹ *James Mack*, 43 ECAB 321 (1991).

¹⁰ See *Robert Broome*, 55 ECAB 339 (2004).

¹¹ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

examination.¹² While he generally stated that he treated appellant for several years, the record does not contain medical examination findings and reports which actually establish the various diagnoses provided. Moreover, it appears that Dr. DeGrauw did not base his opinion on his own findings on examination as the physician vaguely noted treatment and findings by neurology, orthopedics, and primary care physicians which were too numerous to document. The procedure manual provides that greater probative value is given to a medical opinion based on an actual examination. An opinion based on a cursory or incomplete examination will have less value compared to an opinion based on a more complete evaluation.¹³ Dr. DeGrauw failed to cite specific objective evidence documenting appellant's hand and elbow injuries. He diagnosed carpal tunnel syndrome and tendinitis of the hands and elbows, Raynaud's syndrome, and degenerative joint disease of the wrists and elbows. It is unclear what diagnostic reports Dr. DeGrauw utilized to ascertain appellant's various diagnoses. Moreover, an explanation not supported by physical findings, does not constitute a well-rationalized medical opinion.¹⁴

Dr. DeGrauw reported that appellant experienced numbness, tingling, and pain involving the tips of his fingers and earlobes and was diagnosed with Raynaud's syndrome in March 2011. He noted that appellant had no prior similar symptoms and opined that Raynaud's syndrome was caused by the use of pneumatic tools. The Board has held that an opinion that a condition is causally related because the employee was asymptomatic before the injury is insufficient, without adequate rationale, to establish causal relationship.¹⁵ Dr. DeGrauw's opinion that continual use of these pneumatic tools could eventually lead to amputation of his fingers due to its effect on circulation is also of no probative value. The Board has held that fear of future injury does not constitute injury and is not compensable under FECA.¹⁶

Dr. DeGrauw's diagnosis of tendinitis and carpal tunnel syndrome in the hands and elbows is also insufficient to establish appellant's claim. He explained that the conditions stemmed back to 2013 and appellant's job involved gripping and handling tools 100 percent of the time. Not only did Dr. DeGrauw fail to provide a detailed medical history or cite objective evidence for the findings made, he failed to provide any opinion on the cause of these conditions. Simply noting appellant's occupational duties is insufficient to establish a firm medical diagnosis which could be reasonably attributed to his occupational duties.¹⁷

Dr. DeGrauw further diagnosed chronic degenerative joint disease in multiple areas of the body including the lower back, upper back, neck, shoulders, wrists, and elbows. With respect to degenerative joint disease of the wrists and elbows, the record fails to contain any

¹² See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.6(a)(4) (September 2010).

¹⁴ *Id.* at Chapter 2.810.6(a)(2).

¹⁵ *M.R.*, Docket No. 14-11 (issued August 27, 2014).

¹⁶ *I.J.*, 59 ECAB 408 (2008).

¹⁷ *S.Y.*, Docket No. 11-1816 (issued March 16, 2012).

objective evidence or physical examination findings to establish a firm medical diagnosis. Dr. DeGrauw noted a history of degenerative joint disease stemming back to 1987. Moreover, he failed to provide an adequate medical history and did not address why appellant's complaints were not caused by a preexisting degenerative condition.¹⁸ A well-rationalized opinion is particularly warranted when there is a history of preexisting condition.¹⁹ While the physician had some understanding of appellant's employment duties,²⁰ Dr. DeGrauw failed to establish a firm medical diagnosis and did not provide a rationalized opinion on causal relationship. Thus, his medical report does not constitute sufficiently probative medical evidence of a clear diagnosis and does not adequately explain the cause of appellant's injury.²¹

Dr. DeGrauw's January 27, 2015 report is also insufficient to establish appellant's claim for hand and elbow injuries. While his report noted current physical examination findings, he failed to provide a thorough review of appellant's medical history and did not discuss any diagnostic reports. Dr. DeGrauw's identification of generalized degenerative joint disease of the hand was not provided with detailed objective findings to support a firm diagnosed condition.²² His report also provided diagnoses of cervicgia and Alzheimer's dementia. As noted above, any opinion pertaining to diagnoses made that do not relate to hand and elbow injuries as alleged by appellant in this occupational disease claim are of no probative value. It is appellant's burden to specify the nature of his claim.²³

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.²⁴ An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.²⁵ To establish a firm medical diagnosis and causal relationship, appellant must submit a physician's report in which the physician reviews those factors of employment alleged to have caused his condition and, taking these factors into consideration, as well as findings upon examination and his medical history, explain how these employment factors caused or aggravated any diagnosed condition, and present medical rationale in support of his opinion.²⁶

¹⁸ *R.E.*, Docket No. 14-868 (issued September 24, 2014).

¹⁹ *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

²⁰ Dr. DeGrauw explained that appellant's work as a sheet metal mechanic for the past 30 years involved lifting heavy items weighing 150 to 175 pounds, frequent bending and stooping approximated at 80 degree angles for 70 to 80 percent of the day, and frequent bending over using pneumatic bands to apply sheet metal.

²¹ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

²² *C.f.*, *R.G.*, Docket No. 14-113 (issued April 25, 2014).

²³ *O.S.*, Docket No. 13-438 (issued July 15, 2014).

²⁴ *Daniel O. Vasquez*, 57 ECAB 559 (2006).

²⁵ *D.D.*, 57 ECAB 734 (2006).

²⁶ *Supra* note 6.

In the instant case, the record is without rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted federal employment duties. OWCP advised appellant of the type of medical evidence required to establish his claim; however, he failed to submit such evidence. Thus, appellant has failed to meet his burden of proof.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish hand and elbow injuries as a result of his federal employment duties.

ORDER

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

Issued: October 19, 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