

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

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C.W., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
Lacon, IL, Employer

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**Docket No. 16-0886  
Issued: August 19, 2016**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On March 23, 2016 appellant filed a timely appeal of a January 7, 2016 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 case.<sup>2</sup>

**ISSUE**

The issue is whether appellant met her burden of proof to establish an occupational disease causally related to factors of her federal employment.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> After OWCP's January 7, 2016 decision, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).

## **FACTUAL HISTORY**

On October 14, 2015 appellant then a 52-year-old clerk, filed an occupational disease claim (Form CA-2), alleging that she developed carpal tunnel syndrome as a result of manual sorting, casing, and keying mail, eight hours a day throughout her 28-year postal career. She first became aware of her condition on October 8, 2015 and realized that it was causally related to her employment on the same date. Appellant was last exposed to the conditions alleged to have caused her condition on October 8, 2015.

By letter dated November 12, 2015, OWCP advised appellant of the type of evidence needed to establish her claim. It particularly requested that she submit a physician's reasoned opinion with medical diagnoses addressing the relationship of her claimed condition and specific employment factors. OWCP also requested the employing establishment submit treatment notes if appellant was treated at an agency medical facility.

Appellant submitted a report from Dr. Robert J. Mitchell, an osteopath, dated November 12, 2015, who treated her for bilateral hand pain, finger numbness, and tingling. She reported a gradual onset of pain over a 10-year period and advised that two years ago she underwent an electromyogram (EMG) and was diagnosed with carpal tunnel syndrome. Appellant reported difficulty with activities of daily living, dropping items, and limited gripping. Dr. Mitchell noted findings of abnormal bilateral upper extremity peripheral sensation when tested for two-point discrimination, decreased sensation of the median nerve distribution, positive Tinel's and Phalen's signs, normal alignment the bilateral wrists with no deformity or tenderness, and intact strength of the bilateral forearms, wrists, and hands. He diagnosed bilateral carpal tunnel syndrome and counseled appellant on conservative treatment and surgical options and alternatives. Dr. Mitchell referred appellant for an updated EMG.

In a decision dated January 7, 2016, OWCP denied the claim finding that the requirements have not been met for establishing an injury or medical condition causally related to the accepted work factors.<sup>3</sup>

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific

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<sup>3</sup> By decision dated May 23, 2016, OWCP denied appellant's request for a review of the written record as untimely. The Board and OWCP may not simultaneously exercise jurisdiction over the same issue in the same case. Because OWCP must review its decision in order to exercise its discretion on whether to grant an untimely request for a hearing, it may not issue a decision granting or denying a request for a hearing regarding the issue on appeal before the Board. It lacked authority to issue its May 23, 2016 decision, as the case was at that time before the Board on an appeal of the same decision on which the hearing was requested. Accordingly, OWCP's May 23, 2016 decision is rendered null and void. *See* 20 C.F.R. § 501.2(c)(3); *Arlonia B. Taylor*, 44 ECAB 591, 597 (1993).

event, incident, or exposure occurring at the time, place, and in the manner alleged. Appellant must also establish that such event, incident, or exposure caused an injury.<sup>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.<sup>5</sup>

### ANALYSIS

It is undisputed that appellant's work duties as a clerk included repetitively sorting mail, casing mail, and keying mail. It is also undisputed that she was diagnosed with bilateral carpal tunnel syndrome. However, the Board finds that appellant has not submitted sufficient medical evidence to establish that her diagnosed conditions are causally related to specific employment factors.

On November 12, 2015 OWCP advised appellant of the type of medical evidence needed to establish her claim. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated her claimed condition.

The only medical evidence submitted by appellant was a November 12, 2015 report from Dr. Mitchell who treated appellant for bilateral hand pain, finger numbness, and tingling. Appellant reported a gradual onset of pain over a 10-year period and advised that she had been diagnosed with carpal tunnel syndrome. Dr. Mitchell noted findings on examination and diagnosed bilateral carpal tunnel syndrome. However, this report fails to note a history of injury<sup>6</sup> or offer an opinion on how appellant's employment could have caused or aggravated her

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<sup>4</sup> See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>6</sup> *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

condition.<sup>7</sup> Consequently this report is of limited probative value and does not establish appellant's occupational disease claim.

As noted, part of appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship between the employment and the diagnosed condition. Therefore, these notes are insufficient to meet appellant's burden of proof.

The record contains no other medical evidence. Because appellant has not submitted reasoned medical evidence explaining how and why her bilateral carpal tunnel syndrome is employment related, she has not met her burden of proof.

An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated, or aggravated by her employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.<sup>8</sup> Appellant failed to submit such evidence, and OWCP therefore properly denied her claim for compensation.

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 did not meet her burden of proof to establish an occupational disease causally related to factors of her federal employment.

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<sup>7</sup> A.D., 58 ECAB 149 (November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>8</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 7, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 19, 2016  
Washington, DC

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

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

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