

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

D.S., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Havertown, PA, Employer**

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**Docket No. 17-1422
Issued: November 9, 2017**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 15, 2017 appellant filed a timely appeal from an April 7, 2017 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 the claim.²

ISSUE

The issue is whether appellant met his burden of proof to establish a left hand injury causally related to a January 23, 2017 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence on appeal. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. *See* 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On January 25, 2017 appellant, then a 55-year-old letter carrier, filed a claim for traumatic injury (Form CA-1) alleging that fingering and delivering mail on January 23, 2017 caused a left hand injury with the immediate onset of sharp pain. As his left hand swelled and remained painful, he took an over-the-counter analgesic on January 24, 2017. Appellant stopped work on January 25, 2017 and reported the condition to his supervisor.

In a January 30, 2017 report, Dr. Adam B. Strohl, an attending Board-certified plastic surgeon, related appellant's account of pain and swelling in his left index and long fingers, and in the dorsum of his left hand and wrist, beginning on January 23, 2017 when wearing "compression gloves in the rain." His pain and swelling worsened over the following two days, when appellant stopped work and sought treatment at a hospital emergency room. Dr. Strohl noted a history of a "left forearm and wrist fracture that was treated operatively when he was 18 years old," with a second surgery to remove fixation hardware. He also had a left small finger metacarpal fracture, treated with immobilization. On examination, Dr. Strohl noted mild swelling on the dorsum of the left hand with 2 three centimeter (cm) ulcerations, the first "on the radial aspect of the index finger metacarpophalangeal joint on the dorsal aspect, and the second [was] over the dorsal wrist." He also observed crepitus of the left index and long fingers, tenderness over the dorsal wrist, and fullness with "bogginess, along the third dorsal extensor compartment." Dr. Strohl reviewed January 25, 2017 emergency room reports. He diagnosed tendinitis of the left index and long finger, left dorsal hand swelling, pain in the left index and long finger, and a history of left distal radius fracture, status postoperative reduction and fixation, and removal of hardware.

Appellant also provided three photographs of his left hand, and a January 30, 2017 occupational therapy evaluation.

In a March 1, 2017 letter, OWCP notified appellant of the additional evidence needed to establish his claim, including a detailed description of the work factors he believed caused the claimed injury, and a report from his attending physician explaining how and why those tasks would cause a left hand injury. It afforded appellant 30 days to submit such evidence.

In response, appellant submitted a March 23, 2017 letter, asserting that, while delivering mail on January 23, 2017, he experienced "excruciating pain in [his] fingers and the back of [his] left hand." His pain increased while working on January 24, 2017 and his left hand swelled significantly on January 25, 2017. Appellant brought this to the attention of his supervisor, who directed that he be taken to a hospital emergency room.

Dr. Dorothy Y. Wang, an attending physician Board-certified in emergency medicine, provided a January 25, 2017 report relating appellant's account of a January 23, 2017 onset of left hand pain and swelling when delivering mail. Appellant wore a lined neoprene glove, which became soaked with rain and difficult to remove. On examination Dr. Wang found mild diffuse swelling across the dorsum of the left hand. She obtained x-rays demonstrating soft tissue swelling along the dorsum of the left wrist and hand. Dr. Wang diagnosed "[l]ikely a mild contact irritation" from the neoprene glove.

In a February 6, 2017 report, Dr. Strohl diagnosed left hand extensor tendinitis, with subcutaneous edema of the dorsum of the left hand visible on February 1, 2017 magnetic resonance imaging (MRI) scan. He noted that conservative treatment with splinting and anti-inflammatories was effective in reducing appellant's symptoms, and released him from care. Dr. Strohl provided a follow-up report dated March 20, 2017, diagnosing extensor tendinitis, "likely an overuse injury. Repetitive motion, as a letter carrier, with reaching for parcels and placing them into presumed mailboxes would likely contribute to such overuse, especially once it occurs."

By decision dated April 7, 2017, OWCP denied appellant's claim, finding that causal relationship had not been established. It accepted that the identified work incident occurred as alleged. However, OWCP found that the medical evidence of record did not establish that the accepted incident caused a left hand injury as it did not provide sufficient rationale explaining how and why fingering mail while wearing a lined neoprene glove on January 23, 2017 would cause or contribute to a left hand injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish 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 is 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 an occupational disease.⁵

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 actually experienced the employment incident that is alleged to have occurred.⁶ 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.⁷

Generally, the medical evidence required to establish causal relationship is 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 causal relationship between the claimant's diagnosed condition and the implicated employment factors. The

³ *Supra* note 1.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁶ *Gary J. Watling*, 52 ECAB 278 (2001).

⁷ *Deborah L. Beatty*, 54 ECAB 340 (2003).

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.⁸

ANALYSIS

Appellant alleged that fingering mail while wearing a lined neoprene glove on January 23, 2017 caused his left hand injury. OWCP accepted that the incident occurred as alleged, but denied the claim based on a lack of medical evidence supporting causal relationship.

In support of his claim, appellant provided a January 25, 2017 report from Dr. Wang, an attending physician Board-certified in emergency medicine, diagnosing “likely” contact irritation from the neoprene glove. The equivocal nature of this opinion significantly diminishes its probative value.⁹

Dr. Strohl, an attending physician Board-certified in plastic surgery, diagnosed tendinitis of the left index and long finger on January 30, 2017. On February 6, 2017 he diagnosed extensor tendinitis of the left hand, treated successfully with conservative measures. Dr. Strohl explained in a March 2, 2017 report that the diagnosed extensor tendinitis was “likely” due to overuse from reaching for and placing parcels into mailboxes. In addition to its indefinite nature, he attributed extensor tendinitis to activities not alleged or established as factual. Dr. Strohl also indicated that the nature of appellant’s condition was due to presumed work tasks over an extended period of time, and not to a traumatic incident as claimed. His opinion therefore tends to negate the claimed causal relationship between delivering mail on January 23, 2017 and an alleged traumatic left hand injury. As the medical evidence of record does not contain sufficient medical rationale supporting causal relationship between the accepted work incident and the claimed left hand injury, appellant has failed to meet his burden of proof.¹⁰

On appeal appellant contends that the claimed injury was occupational in nature because the only repetitive hand motion he performed was “fingering through the mail.” He also asserts that OWCP continued to use the emergency room diagnoses, which later proved wrong, and “should be left out of any claim examination.” As explained above, the medical evidence of record does not support causal relationship between the accepted work incident and the claimed left hand injury.¹¹

⁸ *Solomon Polen*, 51 ECAB 341 (2000).

⁹ *See Steven S. Saleh*, 55 ECAB 169 (2003).

¹⁰ *Supra* note 7.

¹¹ Appellant may file an occupational disease claim (Form CA-2) if he believes that his condition arose due to work factors occurring over the course of more than one work shift. *See* 20 C.F.R. § 10.5(g), which defines an occupational disease.

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 met his burden of proof to establish a left hand injury causally related to a January 23, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 7, 2017 is affirmed.

Issued: November 9, 2017
Washington, DC

Patricia H. Fitzgerald, Deputy 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