

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

J.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
St. Louis, MO, Employer**

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**Docket No. 18-0006
Issued: March 8, 2018**

Appearances:

Alan J. Shapiro, Esq., for the appellant¹

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 October 2, 2017 appellant, through counsel, filed a timely appeal from an August 1, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish bilateral carpal tunnel syndrome causally related to the accepted factors of her federal employment.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 21, 2016 appellant, then a 57-year-old retired data entry operator, filed an occupational disease claim (Form CA-2) alleging that her carpal tunnel syndrome was causally related to her 37 years of work at the employing establishment. On the reverse side of the claim form, appellant's supervisor reported that appellant had retired on July 25, 2014.

Appellant underwent an electrodiagnostic evaluation, which included electromyography (EMG) and nerve conduction velocity (NCV) studies, by Dr. Daniel Phillips, a Board-certified neurologist. In an August 15, 2016 report, Dr. Phillips noted that appellant's complaints began in 2010. He provided examination findings of severe, right more than left, sensorimotor median neuropathies across the carpal tunnel.

By letter dated September 26, 2016, OWCP informed appellant that the evidence of record was insufficient to support her claim. It advised her of the type of medical and factual evidence necessary to establish her claim and provided a development questionnaire for her completion. Appellant was afforded 30 days to submit the requested evidence.

On October 4, 2016 appellant responded to OWCP's development questionnaire. She described her daily work duties noting that when she arrived at work she first opened mail with a hand held mail opener, which required use of her fingers, wrist, and elbows. Next, appellant spent two to three hours keying in each piece of mail and opening up "CN08s," (regarding international mail) if time allowed. She also filed and batched mail, which required lifting, pulling, and pushing. Appellant related that these activities caused pain in her fingers, elbows, and wrists. Occasionally she took pain medication and wore wrist braces when she performed her duties. Appellant further explained that in 2010 she began experiencing numbness and tingling in her hands. She attributed her bilateral carpal tunnel condition to years of continuous repetitive work duties of data entry, filing, and boxing up documents.

By decision dated November 2, 2016, OWCP accepted the alleged employment factors and that appellant had been diagnosed with a medical condition. However, it denied her claim because the medical evidence of record failed to establish that the diagnosed medical condition was causally related to the accepted factors of her federal employment.

On November 30, 2016 appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative, which was held on June 14, 2017.

In an April 18, 2017 report, Dr. Wade Hammond, a Board-certified orthopedic surgeon, related that he had examined appellant on March 29, 2017. He performed a physical examination and reviewed medical reports. Under history of injury, Dr. Hammond indicated that appellant retired in 2014. He noted she had previously performed data entry eight hours per day five days a week and that this work required repetitive hand, elbow, fingers, and wrist movement. Dr. Hammond also noted that appellant was injured on April 27, 2005 when she carried heavy boxes. Appellant complained of tingling, discomfort, and significant numbness in both upper extremities and her neck. Her physical examination revealed no significant elbow or shoulder abnormalities, slightly positive bilateral wrist Tinel's sign, markedly diminished grip strength, and diminished bilateral hand fingertip sensation. Dr. Hammond diagnosed bilateral

upper extremity overuse syndrome and bilateral carpal tunnel syndrome, which he attributed to her 38 years of data entry at the employing establishment.

By decision dated August 1, 2017, OWCP's hearing representative affirmed the November 2, 2016 decision, finding that the evidence of record failed to establish causal relationship between her diagnosed bilateral carpal tunnel syndrome and the accepted employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence⁴ including that he or she sustained an injury in the performance of duty, and that any specific condition or disability for work for which compensation is claimed is causally related to that employment injury.⁵ In an occupational disease claim, appellant's burden requires 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.⁶

To establish 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 supporting such causal relationship.⁷ 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.⁸

³ *Supra* note 2.

⁴ *J.P.*, 59 ECAB 178 (2007), *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton, id.*

⁶ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

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

⁸ *James Mack*, 43 ECAB 321 (1991).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her bilateral carpal tunnel syndrome was causally related to the accepted factors of her federal employment.

In support of her claim appellant submitted an April 18, 2017 report by Dr. Hammond who related appellant retired in 2014 from her data entry job. He noted complaints of tingling, discomfort, and significant numbness. Dr. Hammond diagnosed bilateral carpal tunnel syndrome based on her diminished grip strength and positive wrist Tinel's sign. According to Dr. Hammond, appellant's bilateral carpal tunnel syndrome was employment related due to overuse of her wrists during 38 years of data entry. The Board finds that Dr. Hammond did not provide adequate medical rationale on causal relationship. Dr. Hammond's statement on causation failed to provide a sufficient explanation as to the mechanism of injury pertaining to this occupational disease claim as alleged by appellant, namely, how data entry would cause or aggravate her bilateral carpal tunnel syndrome.⁹ Without explaining how physiologically the movements involved in appellant's employment duties caused or contributed to her diagnosed condition, Dr. Hammond's opinion on causal relationship is equivocal in nature and of limited probative value.¹⁰ Thus, Dr. Hammond's April 18, 2017 report is insufficient to meet appellant's burden of proof.

Dr. Phillips' August 15, 2016 EMG/NCV study report is likewise insufficient to establish causal relationship. The Board has held that reports of diagnostic tests are of limited probative value as they fail to provide an opinion on the causal relationship between appellant's employment duties and the diagnosed condition. For this reason, this evidence is insufficient to meet her burden of proof.¹¹

On appeal counsel contends that OWCP's decision was contrary to fact and law. Based on the findings and reasons stated above, the Board finds counsel's arguments are not substantiated.

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 her burden of proof to establish bilateral carpal tunnel syndrome causally related to the accepted factors of her federal employment.

⁹ *S.W.*, Docket No. 08-2538 (issued May 21, 2009).

¹⁰ *See L.M.*, Docket No. 14-0973 (issued August 25, 2014); *R.G.*, Docket No. 14-0113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-0548 (issued November 16, 2012).

¹¹ *See A.B.*, Docket No. 17-1301 (issued May 19, 2017).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 1, 2017 is affirmed.

Issued: March 8, 2018
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