

ISSUE

The issue is whether appellant has met his burden of proof to establish left thumb conditions causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On February 22, 2018 appellant, then a 32-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) alleging that he developed left thumb ligament strain due to repeated usage while in the performance of duty. He indicated that he first became aware of his condition on January 30, 2018 and attributed it to his federal employment on February 20, 2018. In a narrative statement, appellant alleged that he struck his thumb during his first week of work. He sought medical treatment, received a brace, and continued to work. Appellant alleged that his left thumb pain continued after several weeks of work and on February 20, 2018 he experienced severe left thumb pain.

In a note dated February 22, 2018, Dr. Stephen A. Cohen, a family practitioner, reported appellant's complaints of left hand pain since February 20, 2018 and diagnosed radial styloid tenosynovitis. He provided appellant with a thumb spica brace and released him to work with restrictions.

Dr. Matthew Shores, Board-certified in sports medicine, examined appellant on February 23, 2018 and diagnosed left thumb sprain at the metacarpophalangeal (MCP) joint. He noted that appellant first sought treatment with him on February 22, 2018 due to a work-related gradual onset injury. Appellant attributed his left thumb condition to repetitive motion while carrying mail including holding mail in his left hand and grasping the mail repeatedly between his thumb and index finger. He also noted that he had tripped and fallen at home on January 31, 2018 injuring his left hand.

In a February 28, 2018 narrative statement, appellant described his work duties from February 17 through 20, 2018 as lifting and moving parcels from the conveyor belt into cages. On February 20, 2018 the job became more demanding requiring him to move cages of mail, which resulted in pain and strain of his left thumb. Appellant also lifted boxes and parcels weighing over 10 pounds.

On March 2, 2016 appellant underwent a left thumb magnetic resonance imaging (MRI) scan, which demonstrated full-thickness avulsion tear of the ulnar collateral ligament (UCL) at the MCP joint, moderate volar subluxation of the first proximal phalanx relative to the metacarpal head and thickening of the volar plate with joint effusion.

In a March 14, 2018 development letter, OWCP advised appellant of the deficiencies of his claim. It requested additional factual and medical evidence from him, and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

On March 3, 2018 Dr. Shores completed a narrative report and described appellant's fall at home on January 31, 2018. Appellant noted further pain and aggravation or exacerbation of his thumb injury with his return to work. Dr. Shores listed the job duties that may have aggravated

appellant's thumb pain as repetitive gripping of letters, mail, magazines, and forceful gripping with thumb opposition including carrying parcels. He opined that the initial UCL tear occurred during the January 31, 2018 fall. Dr. Shores noted that, in the following three weeks, "further aggravation of the pain in the thumb may have resulted from the essential job duties as a mail carrier, such as repetitive forceful thumb opposition." He deferred to an orthopedic hand specialist for any further determination of the cause of the tear and any further aggravation/exacerbation due to appellant's employment duties.

On March 14, 2018 Dr. Joseph Haber, a Board-certified hand surgeon, related a history of appellant's fall at home on January 30, 2018 and appellant's belief that his left thumb became more painful after taking a job with the employing establishment. He indicated that appellant did not have a specific injury at work, but rather an injury when he fell at home on January 30, 2018. Dr. Haber noted that appellant felt that he had been markedly worse since working and trying to deliver mail and train as a postal worker. He described appellant's work duties as pushing and pulling. Dr. Haber provided appellant with a thumb cast and opined that as it was a chronic injury it would likely require a tendon graft for repair of the ligament.

In a note dated March 15, 2018, Dr. Shores reported that appellant's initial injury was his fall at home on January 31, 2018, but that this was likely further exacerbated at work with repetitive use. He deferred to Dr. Haber to determine any associated aggravation or worsening due to repetitive use between January 31 and February 22, 2018.

On March 28, 2018 appellant provided an additional narrative statement and asserted that his federal work duties were very physically demanding. He noted that he was required to inspect his vehicle, case his route, and gather parcels. Appellant then loaded his vehicle and drove to his route to deliver the mail. He asserted that most items weighed between 15 and 20 pounds, that he was required to lift up to 35 pounds frequently and 50 to 70 pounds rarely.

On April 4, 2018 Dr. Haber reported that appellant continued to experience severe left thumb pain. He diagnosed chronic left thumb collateral ligament injury and recommended surgery.

By decision dated April 17, 2018, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition and the accepted work duties.

On April 24, 2018 appellant, through counsel, requested an oral hearing before an OWCP hearing representative. During the September 12, 2018 oral hearing, he testified that he began work at the employing establishment on January 20, 2018 and that he fell "at home around January 30[, 2018]." Appellant asserted that his left thumb condition worsened between February 17 and 20, 2018 despite wearing a brace as he was emptying conveyor belts and moving heavy cages of mail. He was separated from employment with the employing establishment on May 1, 2018 and underwent thumb surgery on June 2, 2018.

On October 9, 2018 appellant provided additional medical evidence including a January 29, 2018 note from Dr. James M. Kurbat, Board-certified in emergency medicine, who

indicated that appellant injured his left thumb on January 29, 2018 trying to catch himself while falling at home. Dr. Kurbat diagnosed finger sprain.

On June 1, 2018 Dr. Paul S. Mahoney, a Board-certified hand surgeon, performed a repair of the left thumb MCP joint UCL using a graft.

By decision dated November 1, 2018, OWCP's hearing representative affirmed the April 17, 2018 OWCP decision, finding that appellant had not provided medical evidence sufficient to establish causal relationship between his diagnosed condition and the accepted factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 timely filed within the applicable time limitation period of FECA,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical 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 upon a traumatic injury or an occupational disease.⁵

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."⁶ 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 diagnosed condition is causally related to the identified employment factors.⁷

Causal relationship is a medical question, which requires rationalized medical opinion evidence to resolve the issue.⁸ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factors must be based upon a

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ 20 C.F.R. § 10.5(q).

⁷ *L.E.*, Docket No. 18-1138 (issued February 1, 2019).

⁸ *E.V.*, Docket No. 18-1617 (issued February 26, 2019).

complete factual and medical background.⁹ Additionally, the physician’s opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the claimant’s specific employment factors.¹⁰ The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish left thumb conditions causally related to the accepted factors of his federal employment.

In support of his claim, appellant submitted several reports from Dr. Shores who listed appellant’s job duties and opined that they “may have” aggravated appellant’s thumb pain as repetitive gripping of letters, mail, and magazines as well as forceful gripping with thumb opposition including carrying parcels. On March 15, 2018 Dr. Shores noted that appellant’s initially injured his thumb in a fall at home, but he opined that this was “likely” further exacerbated at work with repetitive use. His opinions are couched in speculative terms, noting only the possibility that appellant’s job duties “may” and “likely” could have contributed to his left thumb condition. Entitlement to FECA benefits may not be based on surmise, conjecture, speculation, or on the employee’s own belief of a causal relationship.¹² While the opinion supporting causal relationship does not have to reduce the cause or etiology of a disease or a condition to an absolute certainty, the opinion must be one of reasonable medical certainty and not speculative or equivocal in character.¹³ Because Dr. Shores’ opinions are speculative and equivocal in nature these opinions are not rationalized and do not carry appellant’s burden of proof as to causal relationship.

In addition appellant submitted medical reports of Dr. Haber, Dr. Kurbat, and Dr. Mahoney in support of his claim. However, none of these physicians offered an opinion on causal relationship between appellant’s diagnosed condition and the accepted employment factors. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s condition is of no probative value on the issue of causal relationship.¹⁴ These reports, therefore, are insufficient to establish appellant’s claim.

⁹ *Id.*

¹⁰ *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹¹ *E.V.*, *supra* note 8; *Lourdes Harris*, 45 ECAB 545, 547 (1994).

¹² *M.S.*, Docket No. 19-0189 (issued May 14, 2019); *L.T.*, Docket No. 18-1603 (issued February 21, 2019).

¹³ *M.S.*, *id.*; *C.L.*, Docket No. 18-1379 (issued February 5, 2019).

¹⁴ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

The Board finds that the record lacks rationalized medical evidence establishing causal relationship between appellant's left thumb condition and the accepted factors of his federal employment.¹⁵ Thus, appellant has not met his burden of proof.

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 left thumb conditions causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the November 1, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 5, 2019
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹⁵ *L.E.*, *supra* note 7; *J.S.*, Docket No. 17-0507 (issued August 11, 2017).