

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

P.C., Appellant)	
)	
and)	Docket No. 18-1527
)	Issued: February 8, 2019
U.S. POSTAL SERVICE, GARLAND MAIN)	
POST OFFICE, Garland, TX, Employer)	
)	

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 August 7, 2018 appellant filed a timely appeal from a March 19, 2018 merit decision and May 10, 2018 nonmerit 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.

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish a bilateral trigger finger injury causally related to the accepted factors of her federal employment; and (2) whether OWCP properly denied appellant's request for reconsideration of the merits of her claim under 5 U.S.C. § 8128(a).

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On February 11, 2018 appellant, then a 62-year-old secretary, filed an occupational disease claim (Form CA-2) alleging that she developed trigger finger of the middle fingers on both hands due to keyboarding during a majority of her workday while at the employing establishment. She claimed that keyboarding caused her middle fingers to lock and resulted in severe pain in her finger joints. Appellant noted that she previously had an occupational disease that consisted of carpal tunnel syndrome and trigger finger. She noted that she first became aware of her claimed condition and its relationship to her federal employment on December 3, 2017.

In an accompanying narrative statement dated February 11, 2018, appellant again attributed her trigger finger condition to keyboarding while at work. She related that she had worked at the employing establishment for 31 years. Appellant was originally hired as a computer forwarding system clerk and held this position for 20 years. She worked in her current secretary position for eight and one-half years. Appellant typed at a computer workstation six-to-seven hours a day, five days a week. She noted that, in 2014, she was diagnosed as having carpal tunnel syndrome and trigger thumb. Appellant underwent carpal tunnel release and release of the tendon that aggravated her trigger thumb.

OWCP, by development letter dated February 14, 2018, advised appellant of the factual and medical deficiencies of her claim. It provided a questionnaire for her completion regarding the circumstances of the injury. Appellant was also asked to provide a narrative medical report from her physician which contained a detailed description of findings and diagnoses, explaining how the claimed work activities caused, contributed to, or aggravated her medical condition. By separate letter of the same date, OWCP requested that the employing establishment provide additional factual information concerning her alleged injury, to include comments from a knowledgeable supervisor on the accuracy of appellant's statements. It afforded appellant and the employing establishment 30 days to submit the requested evidence. No further evidence was received.

By decision dated March 19, 2018, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment factors. It noted that she had not submitted any medical evidence in response to its February 14, 2018 development letter.

On April 23, 2018 appellant requested reconsideration. No additional evidence or argument in support of her reconsideration request was received.

By decision dated May 10, 2018, OWCP denied appellant's request for reconsideration of the merits of her claim, finding that she had neither raised substantive legal questions nor submitted new and relevant evidence sufficient to require further merit review. It noted that no additional evidence was received as part of the reconsideration request.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that he or she sustained an injury in the performance of duty, and that any specific condition or disability from work for which he or she claims compensation is causally related to that employment injury.³

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 employment factors identified by the claimant.⁴

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁵ 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 employee.⁶ Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁷

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish a bilateral trigger finger injury causally related to the accepted factors of her federal employment.

OWCP accepted as factual that appellant engaged in repetitive keyboarding in her employment duties as a secretary. The issue, therefore, is whether appellant submitted sufficient medical evidence to establish that the employment exposure caused or aggravated a bilateral trigger finger condition.

By development letter dated February 14, 2018, OWCP requested that appellant submit additional evidence in support of her claim, including a comprehensive medical report from her treating physician which included a reasoned explanation as to how the work activities identified

² *Id.*

³ *M.S.*, Docket No. 17-0980 (issued June 19, 2018).

⁴ *I.D.*, Docket No. 18-1118 (issued December 31, 2018); *R.B.*, Docket No. 18-0720 (issued November 13, 2018).

⁵ *K.L.*, Docket No. 18-0937 (issued December 28, 2018).

⁶ *See supra* notes 4 and 5.

⁷ *See supra* note 5; *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

by her had caused, contributed to, or aggravated her claimed medical condition. It afforded her 30 days to respond. Appellant did not submit the requested evidence prior to the issuance of OWCP's March 19, 2018 merit decision.

Appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relationship between the accepted employment factors and the diagnosed condition.⁸ The record in this case contains no medical evidence. Because appellant has not submitted reasoned medical evidence explaining how and why her claimed bilateral trigger finger condition was employment related, she has not met her burden of proof.⁹

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.

LEGAL PRECEDENT -- ISSUE 2

Section 8128(a) of FECA vests OWCP with a discretionary authority to determine whether it will review an award for or against compensation, either under its own authority or on application by a claimant.¹⁰ Section 10.608(a) of OWCP's regulations provide that a timely request for reconsideration may be granted if OWCP determines that the claimant has presented evidence and/or argument that meet at least one of the standards described in section 10.606(b)(3).¹¹ This section provides that the application for reconsideration must be submitted in writing and set forth arguments and contain evidence that either: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.¹² Section 10.608(b) provides that, when a request for reconsideration is timely, but fails to meet at least one of these three requirements, OWCP will deny the application for reconsideration without reopening the case for a review on the merits.¹³

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim.

⁸ See *supra* notes 4 and 5.

⁹ R.C., Docket No. 17-1294 (issued December 20, 2018).

¹⁰ 5 U.S.C. § 8128(a).

¹¹ 20 C.F.R. § 10.608(a).

¹² *Id.* at § 10.606(b)(3).

¹³ *Id.* at § 10.608(b).

OWCP denied appellant's occupational disease claim for a bilateral trigger finger condition causally related to the accepted factors of her employment. Thereafter, it denied her timely reconsideration request without reviewing the merits of her claim.

The Board finds that appellant did not show that OWCP erroneously applied or interpreted a specific point of law, nor did she advance a relevant legal argument not previously considered by OWCP, or provide relevant and pertinent new evidence not previously considered by OWCP.

Appellant's April 23, 2018 reconsideration request consisted only of a checkmark on an appeal request form indicating that she wanted reconsideration. She did not offer any argument or submit any evidence in support of her request. Appellant suggested no reason for OWCP to reconsider the denial of her occupational disease claim. Such a bare request is insufficient to warrant a reopening of her case.¹⁴ Accordingly, appellant did not meet any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

On appeal appellant contends that she submitted medical evidence together with her request for reconsideration. As found above, however, the record does not show that any evidence accompanied her April 23, 2018 reconsideration request. As the record does not contain any new evidence submitted prior to the issuance of OWCP's May 10, 2018 nonmerit decision, the Board finds that OWCP properly declined to reopen her claim for a merit review.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a bilateral trigger finger injury causally related to the accepted factors of her federal employment. The Board further finds that OWCP properly denied her request for reconsideration of the merits of her claim under 5 U.S.C. § 8128(a).

¹⁴ See *J.H.*, Docket No. 18-0875 (issued October 11, 2018); *J.R.*, Docket No. 17-1312 (issued September 20, 2017).

ORDER

IT IS HEREBY ORDERED THAT the May 10 and March 19, 2018 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 8, 2019
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