



## **ISSUE**

The issue is whether appellant has met his burden of proof to establish a left middle finger condition causally related to the accepted factors of his federal employment.

## **FACTUAL HISTORY**

On June 19, 2018 appellant, then a 51-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he developed arthritis in his left middle finger due to factors of his federal employment. He indicated that he repetitively used his left hand to finger through letters and flats since 1992. Appellant further indicated that he first became aware of his condition and first realized it was caused or aggravated by his federal employment duties on May 21, 2018. He did not stop working. OWCP assigned File No. xxxxxx071 to this claim, which is the subject of the current appeal.

Appellant has three other claims relative to his left upper extremity. In 2013 he filed an occupational disease claim that was accepted for left carpal tunnel syndrome under OWCP File No. xxxxxx777. In 2015 appellant filed an occupational disease claim that was denied for a left upper extremity condition under OWCP File No. xxxxxx856. In 2017 he filed an occupational disease claim that was accepted for an exacerbation of left carpal tunnel syndrome, exacerbation of left cubital tunnel syndrome, and arthritis of the left thumb carpal metacarpal (CMC) joint under OWCP File No. xxxxxx847. On October 31, 2017 appellant underwent a left wrist trapeziectomy, left thumb CMC joint arthroplasty with tendon transfer, left carpal tunnel release, and in situ left ulnar nerve release at the elbow.

In two reports dated May 21 and June 18, 2018, Dr. Richard J. Tosti, a Board-certified orthopedic hand surgeon, indicated that appellant was status post left CMC thumb arthroplasty, carpal tunnel release, and cubital tunnel release surgeries, which he underwent on October 31, 2017. He further indicated that appellant had been released to part-time, full-duty work, but had been “struggling” at work with metacarpophalangeal (MP) joint range of motion and soreness around the MP joint when sifting through letters. Dr. Tosti reviewed x-rays that showed significant arthrosis and diagnosed MP joint arthrosis of the left middle finger. He opined that appellant’s condition was related to his work as a mail carrier as well as the other forms of arthritis around the wrist in his hand.

In a development letter dated July 9, 2018, OWCP advised appellant of the deficiencies of his claim and advised him of the factual and medical evidence necessary to establish his claim. It afforded him 30 days to submit additional evidence and respond to its inquiries.

On July 24, 2018 the employing establishment controverted appellant’s claim. It submitted a position description and related that he cased mail into three pieces of equipment with four shelves for approximately 1 hour and 15 minutes per day and once the mail was cased, he pulled down the mail and placed it into containers, and then loaded all the mail, including parcels, into a vehicle before delivering it to a total of 619 boxes. The employing establishment acknowledged that casing mail would be considered repetitive in nature, but appellant was right-hand dominant so it did not follow that his left middle finger condition would be causally related to his federal employment.

In a narrative statement dated July 16, 2018, appellant indicated that he worked as a letter carrier for the past 26 years and he used his left hand repetitively to finger through letters and magazines and third bundles. He stated that the middle finger is the longest finger so that was the first finger that he used to start fingering through letters, repetitively. Appellant indicated that he had a previously accepted claim under OWCP File No. xxxxxx847 and requested that the acceptance of the claim be expanded to include a left middle finger condition.

In an undated report, Dr. Tosti noted that appellant had been under his care for left upper extremity pain and arthritis since January 2017. He opined that appellant's conditions are causally related to his work as a mailman as his left upper extremity was the one that he used solely to manipulate the mail. In order to manipulate the mail, appellant had to have a firm pinch/grip between the thumb and the forefinger as well as the rest of the fingers. Dr. Tosti related that appellant had been suffering with left middle finger MP joint pain and stiffness that had been progressing. He noted that radiographs confirmed significant arthrosis of his middle finger MP joint. While appellant was continuing to improve from a postoperative standpoint with his left thumb CMC joint, Dr. Tosti requested that the acceptance of appellant's claim be expanded to accommodate treatment for the left middle finger MP joint arthrosis because this was the dominant hand/side that he used to disperse the mail and he believed this to be a contributing factor.

By decision dated August 22, 2018, OWCP found that the factual evidence was sufficient to establish fact of injury, but the medical evidence of record failed to establish causal relationship between the diagnosed left middle finger condition and the accepted factors of appellant's federal employment.

On August 28, 2018 appellant requested a hearing before a representative of OWCP's Branch of Hearings and Review.

A telephonic hearing was held before an OWCP hearing representative on January 15, 2019. Appellant provided testimony and the hearing representative held the case record open for 30 days for the submission of additional evidence.

In response, appellant submitted a statement indicating that his doctors had recommended a joint replacement.

Appellant also submitted a report from Dr. Tosti dated January 8, 2018 indicating that appellant's main issue was stiffness in the MP joint of the middle finger that seemed to start sometime after his October 31, 2017 wrist operation, but opined that he was not exactly sure why it was suddenly stiff as he was not in that region of the left hand during the operation. Dr. Tosti recommended strengthening and more aggressive stretching of the MP joint and possibly an intra-articular injection, if he was still very symptomatic.

In a response dated February 4, 2019, the employing establishment again contended that appellant used an excessive amount of leave and worked an average of 16.92 hours per week in the year prior, which was inconsistent with his allegation of performing constant repetitive motion while in the performance of duty. Further, it asserted that, while working, appellant did not utilize his left hand constantly and repetitively, as alleged, but rather in an intermittent nature.

By decision dated March 1, 2019, OWCP's hearing representative affirmed the prior decision finding the medical evidence of record insufficient to establish causal relationship.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>4</sup> 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 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, that an injury was sustained 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.<sup>5</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit 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.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>9</sup> 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 appellant's specific employment factor(s).<sup>10</sup>

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.<sup>11</sup>

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> *K.V.*, Docket No. 18-0947 (issued March 4, 2019); *M.E.*, Docket No. 18-1135 (issued January 4, 2019); *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

<sup>6</sup> *K.V. and M.E., id.*; *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>10</sup> *Id.*; *Victor J. Woodhams, supra* note 7.

<sup>11</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left middle finger condition causally related to the accepted factors of his federal employment.

In his May 21 and June 18, 2018 reports, as well as an undated report, Dr. Tosti noted that appellant had been struggling at work with left upper extremity pain, particularly joint pain and stiffness of the left middle finger, and that diagnostic testing confirmed significant arthrosis of the MP joint of the left middle finger. He opined that appellant's left middle finger condition was a direct result of the accepted factors of his federal employment. While Dr. Tosti identified the specific employment factors alleged by appellant, including using his left upper extremity predominately to manipulate and deliver mail, he did not provide a pathophysiological explanation as to how those activities either caused or contributed to appellant's diagnosed condition.<sup>12</sup> Furthermore, the Board has consistently held that medical rationale is particularly necessary when there are preexisting conditions involving the same body part,<sup>13</sup> and has required medical rationale differentiating between the effects of the work-related injury and the preexisting condition in such cases.<sup>14</sup> As Dr. Tosti's reports lack rationale, they are of limited probative value and therefore insufficient to establish appellant's claim.<sup>15</sup>

As appellant has not submitted rationalized medical evidence to support his claim that he sustained a left middle finger condition causally related to the accepted employment factors, the Board finds that he 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 a left middle finger condition causally related to the accepted factors of his federal employment.

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<sup>12</sup> *Supra* note 10.

<sup>13</sup> *E.g.*, *K.R.*, Docket No. 18-1388 (issued January 9, 2019).

<sup>14</sup> *See, e.g.*, *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *M.F.*, Docket No. 17-1973 (issued December 31, 2018); *J.B.*, Docket No. 17-1870 (issued April 11, 2018); *E.D.*, Docket No. 16-1854 (issued March 3, 2017); *P.O.*, Docket No. 14-1675 (issued December 3, 2015).

<sup>15</sup> *See J.L.*, Docket No. 18-1804 (issued April 12, 2019).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 1, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 25, 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