United States Department of Labor
Employees' Compensation Appeals Board

J.S., Appellant	)	
and	)	**Docket No. 18-0657**
	)	**Issued: February 26, 2020**
DEPARTMENT OF THE ARMY, U.S. ARMY CORPS OF ENGINEERS, Wilmington, NC, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Deputy Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 5, 2018 appellant filed a timely appeal from a December 29, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that following the December 29, 2017 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this evidence for the first time on appeal. *Id.*

ISSUE

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

FACTUAL HISTORY

On August 8, 2016 appellant, then a 46-year-old natural resources specialist, filed an occupational disease claim (Form CA-2) alleging that she developed carpal tunnel syndrome due to factors of her federal employment, including inputting geospatial data from deeds, drawing parcels, and repetitive motion on the computer. She identified July 26, 2016 as the date she was first aware of her condition and first realized her condition was employment related. Appellant did not stop work.

In a report dated August 12, 2016, Dr. Steven R. Anderson, a Board-certified orthopedic surgeon, noted that he had examined appellant for complaints of right wrist pain radiating to her elbow and shoulder. Appellant explained that her pain worsened with the use of a keyboard and mouse and that she had carpal tunnel symptoms 20 years prior without a carpal tunnel release. She noted that her work required her to use a mouse by clicking and dragging to draw lines on computerized maps and that this motion extended her wrist. On examination of the right hand and wrist it was noted that there was a positive carpal tunnel compression test, a positive Tinel's sign over the median nerve, a negative Froment's sign, and a negative Finkelstein's test over the first dorsal extensor compartment. Appellant's right hand and wrist exhibited normal range of motion, normal strength, and no tenderness to palpation. Dr. Anderson diagnosed right carpal tunnel syndrome and recommended that she try a wrist brace at work and have diagnostic studies performed.

In a statement dated August 18, 2016, appellant noted that from 1996 through 1999 she worked as an office automation clerk. In 1996, she was diagnosed with carpal tunnel syndrome due to typing a very large document in a short period of time. Appellant stated that, after the amount of typing at her job returned to normal, the carpal tunnel syndrome resolved. From 1999 through 2002 she worked as a field office assistant which required five hours per day of repeated hand motion of the wrist, including keyboarding. From 2002 through 2010 appellant worked as a park ranger, a position which required very little repetitive hand or wrist motion. From 2010 through 2013 she worked as a supervisory natural resources specialist which required roughly four to five hours of computer work per day, but not repetitively. Starting in 2014 appellant worked as a natural resources specialist which required seven or more hours per day of computer work, including typing. She indicated that she noticed some pain in her right wrist when performing her duties prior to July 26, 2016, but that on that date, she noticed severe pain in her right wrist.

In a development letter dated August 25, 2016, OWCP advised appellant of the factual and medical deficiencies of her claim. It informed her of the evidence necessary to establish her claim and provided a questionnaire for her completion regarding the circumstances of the injury. OWCP afforded appellant 30 days to respond.

In a note dated November 10, 2016, Dr. Anderson indicated that appellant could return to work on that date, but that she could not engage in geospatial or similar work for three months.

By decision dated November 16, 2016, OWCP denied appellant's claim finding that she had not submitted sufficient evidence to establish the factual component of her claim. It noted that she had not responded to the inquiries in its development letter. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

In a note dated December 1, 2016, Dr. Anderson opined that appellant's work, particularly her geospatial work, had contributed to the diagnosed conditions of carpal tunnel and cubital tunnel syndrome, dating back to July 26, 2016.

On November 29, 2016 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

An electromyography and nerve conduction velocity (EMG/NCV) study dated August 30, 2016 indicated mild right carpal tunnel syndrome, with slow, but asymptomatic conduction in the distal right radial sensory nerve and slow conduction in the ulnar nerve of the right elbow.[3]

Appellant submitted physical therapy notes dated from October 7 through November 21, 2016.

The hearing was held before an OWCP hearing representative on June 20, 2107. During the hearing, appellant explained that the work duties alleged to have contributed to her condition included geospatial work involving use of software to digitize paper maps into an electronic format. The hearing representative left the case record open for 30 days for submission of additional evidence.

By decision dated September 6, 2017, the hearing representative set aside OWCP's November 16, 2016 decision and directed further development of the case record by requiring OWCP to schedule an appointment with a second opinion physician.

In a report dated September 21, 2017, Dr. Anderson diagnosed right carpal tunnel syndrome and checked a box marked "yes" indicating that appellant's condition had been caused or aggravated by use of a computer mouse in her federal employment, explaining that the activity involved wrist extensions.

OWCP scheduled appellant for a second opinion examination with Dr. Joseph Estwanik, a Board-certified orthopedic surgeon, on December 1, 2017. In his report Dr. Estwanik noted that appellant claimed that she injured her elbow and wrist due to repetitive motion, and that she had previously been diagnosed with carpal tunnel syndrome in 1996. On examination, he noted negative bilateral Spurling compression testing, full range of motion of the shoulders, the elbow, and the wrists, and fully intact grip with full extension. Appellant had symmetric strength of the biceps, triceps, and grip strength in both extremities. Dr. Estwanik observed that she had no visible thenar, hypothenar, or intrinsic muscle atrophy of either hand. On direct light palpation, appellant

[3] Dr. David M. Seales, a Board-certified neurologist, interpreted the August 30, 2016 EMG/NCV results.

had an intact sensory examination to all fingers and forearms. Tapping the anterior wrist or Tinel's sign produced tingling in the little finger, but Dr. Estwanik noted that this was not a positive Tinel's sign for carpal tunnel syndrome. Phalen's signs were normal. Both wrists were held in full flexion for 30 seconds without symptoms of carpal tunnel syndrome. Tinel's tests created tingling in appellant's fourth and fifth fingers of the right upper extremity and on the left into the left medial forearm area. Dr. Estwanik further noted that the reported right wrist pain radiating up appellant's arm was nonphysiologic and not associated with carpal tunnel syndrome. He pointed out that the report of August 12, 2016 found "Tinel's over cubital tunnel is positive over median nerve," but opined that there was no causal relationship based upon the physical examination to the cubital tunnel and the median nerve, rendering this prior examination finding inaccurate. With regard to the EMG/NCV study of August 30, 2016, Dr. Estwanik noted that the findings were compatible with the known chronic carpal tunnel syndrome of over 20 years' duration, unrelated to appellant's current job. He concluded that there were no significant objective findings relating her current complaints and a 20-year history of carpal tunnel syndrome to her current job.

By decision dated December 29, 2017, OWCP denied appellant's claim finding that she had not established that her medical condition was causally related to the accepted factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] has the burden of proof to establish the essential elements of his or her claim, including 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 of FECA,[5] 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.[6] 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.[7]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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 claimant.[8]

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[4] *Supra* note 1.

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

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

[7] *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).

[8] *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[9] The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment factors identified by the employee.[10]

In a 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.[11]

ANALYSIS

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

In a report August 12, 2016, Dr. Anderson noted appellant's complaints of a repetitive injury, reported the physical requirements of her employment, and provided physical examination findings. He diagnosed right carpal tunnel syndrome and recommended that she try a wrist brace at work and have diagnostic studies performed. In a November 10, 2016 report, Dr. Anderson noted that appellant could return to work on that date, but restricted her work for three months. These reports, however, did not provide an opinion on the issue of causal relationship. 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.[12] These reports, therefore, are insufficient to establish appellant's claim.

In a report dated September 21, 2017, Dr. Anderson diagnosed right carpal tunnel syndrome and checked a box marked "yes" indicating that appellant's condition had been caused or aggravated by use of a computer mouse in her federal employment. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of limited probative value and is insufficient to establish a claim.[13]

In a second opinion report dated December 1, 2017, Dr. Estwanik noted that appellant claimed that she injured her elbow and wrist due to repetitive motion, and that she had previously

[9] *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[10] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *N.C.*, Docket No. 19-1191 (issued December 19, 2019); *R.D.*, Docket No. 18-1551 (issued March 1, 2019)

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

[13] *See M.O.*, Docket No. 18-1056 (issued November 6, 2018); *Deborah L. Beatty*, 54 ECAB 3234 (2003).

been diagnosed with carpal tunnel syndrome in 1996. On examination, Dr. Estwanik noted normal tests and range of motion of appellant's right hand and wrist. He noted that the report of August 12, 2016 found "Tinel's over cubital tunnel is positive over median nerve," and indicated that there was no relationship based upon the physical examination to the cubital tunnel and the median nerve, rendering this examination detail inaccurate. With regard to the NCV study of August 30, 2016, Dr. Estwanik noted that the findings were compatible with the known chronic carpal tunnel syndrome of over 20 years' duration, unrelated to appellant's current job. He opined that there were no significant objective findings relating her current complaints and a 20-year history of carpal tunnel syndrome to her current job. The Board finds that Dr. Estwanik's December 1, 2017 report contains findings on examination, notes inconsistencies in prior medical reports, observes that appellant had preexisting carpal tunnel syndrome, and clearly opines that there were no significant objective findings relating her current complaints and a 20-year history of carpal tunnel syndrome to the accepted factors of her federal employment. Thus, his report negates a finding of causal relationship between her claimed conditions and the accepted factors of her federal employment.[14]

Finally, appellant submitted diagnostic testing reports including the August 30, 2016 EMG/NCV study which evinced mild right carpal tunnel syndrome. The Board has held, however, that diagnostic studies lack probative value on the issue of causal relationship as they do not address whether the employment factors caused the diagnosed conditions.[15] The diagnostic testing is thus insufficient to establish the claim.

As appellant has not submitted sufficient rationalized medical evidence to establish causal relationship, the Board finds that she has not met her burden of proof to establish her occupational disease claim.

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 right carpal tunnel syndrome and right cubital tunnel syndrome causally related to the accepted factors of her federal employment.

[14] *T.W.*, Docket No. 19-0677 (issued August 16, 2019).

[15] *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *J.P.*, Docket No. 19-0216 (issued December 13, 2019).

ORDER

IT IS HEREBY ORDERED THAT the December 29, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 26, 2020
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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