

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

M.B., Appellant)	
)	
and)	Docket No. 19-1643
)	Issued: July 20, 2020
U.S. POSTAL SERVICE, POST OFFICE,)	
Clearwater, FL, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 30, 2019 appellant filed a timely appeal from a July 18, 2019 merit 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish that he sustained a bilateral upper extremity condition in the performance of duty.

FACTUAL HISTORY

On May 7, 2019 appellant, then a 43-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained bilateral carpal tunnel syndrome as a result of his job duties including repetitive use of his hands when "sorting mail, casing mail by placing it into

¹ 5 U.S.C. § 8101 *et seq.*

the letter case, and fingering through the mail while carrying and delivering mail/packages.” He indicated that he first became aware of his claimed condition and its relationship to his federal employment on January 11, 2019. On the reverse side of the claim form, K.H., a customer service manager, noted that appellant had been on extended leave since November 24, 2018 due to an unrelated injury.

In a development letter dated May 22, 2019, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. In a separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor on the accuracy of statements made by appellant in support of his claim. This was to include commentary on the tasks he performed involving repetitive hand and wrist movements, and other details regarding the employment-related exposures alleged to have contributed to his claimed condition. OWCP afforded both parties 30 days to respond.

OWCP subsequently received an April 29, 2019 letter from Dr. Angelo M. Alves, a Board-certified neurologist, who diagnosed significant bilateral carpal tunnel syndrome. He opined that the condition was due to or associated with duties of appellant’s federal employment consisting of sorting mail on a daily basis and for long periods of time. Dr. Alves attached the results of a January 11, 2019 electromyography and nerve conduction velocity study of the upper extremities and neck, which demonstrated results consistent with mild bilateral carpal tunnel syndrome and mild entrapment neuropathy of the ulnar nerve at the wrist level, worse on the left than the right.

In a statement dated June 14, 2019, K.H., on behalf of the employing establishment, responded to OWCP’s inquiries. She indicated that, as a letter carrier, appellant was required to sort mail into a case for approximately one and a half to two hours per day while standing, and for approximately the remaining six hours, he would sort mail intermittently between addresses and drive. K.H. maintained that no repetitive hand or wrist movements were performed at that time. She also listed specific periods of time when appellant had not performed his duties on a long-term basis. K.H. reported that, for the past two years, he had only performed repetitive hand and wrist motions intermittently for a span of two months and then a span of three months, and that from August 25 through November 20, 2018 he was given assistance with his street duties for one to two hours daily. She asserted that appellant’s carpal tunnel syndrome was not caused by these repetitive motions due to the infrequency of his delivery duties, especially over the last two years.

K.H. attached a job description for appellant’s city carrier position. The duties listed included, *inter alia*, casing classes of mail in sequence of delivery along an established route; withdrawing mail from a distribution case and preparing it in sequence for efficient delivery; preparing and separating all classes of mail to be carried; and becoming proficient, when assigned to a route, in the casing of mail on other routes as assigned. Additionally, K.H. indicated that from August 25 through November 20, 2018 appellant was given assistance on a daily basis between one hour and two hours of his street duties. Also attached was an undated, unsigned duty status report (Form CA-17). Only the supervisor’s portion of the form was completed, and this included appellant’s name with daily work requirements including fine manipulation and simple grasping for eight hours intermittently and pushing and pulling for one hour intermittently.

By decision dated July 18, 2019, OWCP denied appellant's claim, finding that he had not submitted sufficient evidence to support that the injury or event(s) occurred as described. It noted that he had not responded to the May 22, 2019 development letter and had not provided a full description of the repetitive motions that he believed lead to his carpal tunnel syndrome. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 filed within the applicable time limitation, that an injury was sustained while 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant 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 claimant.⁵

ANALYSIS

The Board finds that this case is not in posture for decision.

On his May 7, 2019 occupational disease claim form, appellant alleged that he sustained bilateral carpal tunnel syndrome due to his duties as a city carrier which required repetitive use of his hands to sort, case, and finger mail.

By letter dated June 14, 2019, K.H. explained that, as a letter carrier, appellant was required to sort mail into a case for approximately one and a half to two hours per day while standing. For approximately the next six hours, appellant would sort mail intermittently between addresses and drive.

In a job description for the position of city carrier, duties included casing classes of mail in sequence of delivery along an established route; withdrawing mail from a distribution case and

² *Id.*

³ *C.K.*, Docket No. 18-1286 (issued April 20, 2020); *A.F.*, Docket No. 18-1154 (issued January 17, 2019); *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Id.*

⁵ *See L.C.*, Docket No. 19-1301 (issued January 29, 2010). *M.S.*, Docket No. 18-1554 (issued February 8, 2019).

preparing it in sequence for efficient delivery; preparing and separating all classes of mail to be carried; and becoming proficient, when assigned to a route, in the casing of mail on other routes as assigned. Also, the supervisor's portion of a Form CA-17 listed appellant's work requirements as including fine manipulation and simple grasping for eight hours per day intermittently.

As the record contains sufficient evidence to establish that appellant performed repetitive tasks of sorting, casing, and fingering mail while in the performance of duty, the Board finds that he has established that the alleged occupational exposure occurred as alleged.⁶

As appellant has established that the claimed occupational exposures occurred as alleged, the question becomes whether these exposures caused an injury.⁷ Thus, the Board will set aside OWCP's July 18, 2019 decision and remand the case for consideration of the medical evidence of record with regard to the issue of causal relationship.⁸ After any further development as deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met his burden of proof to establish a medical condition causally related to the accepted federal employment factors.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the July 18, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 20, 2020
Washington, DC

Alec J. Koromilas, 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

⁶ See *M.D.*, Docket No. 18-1365 (issued March 12, 2019).

⁷ See *S.A.*, Docket No. 19-1221 (issued June 9, 2020).

⁸ *Id.*