

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

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| _____                                      | ) |                                  |
| <b>T.D., Appellant</b>                     | ) |                                  |
|  | ) |                                  |
| <b>and</b>                                 | ) | <b>Docket No. 20-0921</b>        |
|  | ) | <b>Issued: November 12, 2020</b> |
| <b>DEPARTMENT OF THE AIR FORCE, TINKER</b> | ) |                                  |
| <b>AIR FORCE BASE, OK, Employer</b>        | ) |                                  |
| _____                                      | ) |                                  |

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge

**JURISDICTION**

On March 24, 2020 appellant filed a timely appeal from a March 16, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that following the March 16, 2020 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 additional evidence for the first time on appeal.

## **ISSUE**

The issue is whether appellant has met his burden of proof to establish that he developed trigger finger of the right middle finger causally related to the accepted factors of his federal employment.

## **FACTUAL HISTORY**

On January 6, 2020 appellant, then a 35-year-old sheet metal mechanic, filed an occupational disease claim (CA-2) alleging that he sustained trigger finger of the right middle finger due to factors of his federal employment. He noted that he first became aware of his condition and first realized its relation to his federal employment on August 29, 2019. Appellant explained that he was using a rivet gun to disassemble a nose cowl when his right hand and middle finger began to cramp and hurt. He stopped work on September 27, 2019.

In a September 27, 2019 medical report, Jessica Deppen, a registered nurse, evaluated appellant for right hand pain radiating up his arm that he had experienced for the past month. He reported that he used his right middle finger to operate an air drill and medic rivet gun at work and suspected that this was the cause of his pain. On evaluation, Ms. Deppen diagnosed right hand pain and referred appellant for an x-ray of his right hand.

In a December 19, 2019 medical note, Dr. Mehdi Adham, a Board-certified orthopedic surgeon, diagnosed trigger middle finger of the right hand and right hand pain.

In an undated statement, appellant explained that his position as a sheet metal mechanic required him to use his right middle finger to operate a rivet gun and a drill for 8 to 10 hours a day for 5 to 6 days per week. He provided a definition for trigger finger and detailed the development of his symptoms beginning on or about August 29, 2019. Appellant recalled experiencing progressively worsening pain and cramping in his right hand and middle finger until the pain became constant and he was unable to use his right hand to operate his tools. On October 17, 2019 he was diagnosed with trigger finger of the right middle finger and right hand pain. Appellant asserted that he had no prior medical history associated with trigger finger or his right hand.

Appellant also submitted a position description of his duties as a sheet metal mechanic.

By development letter dated January 15, 2020, OWCP advised appellant that it required additional factual and medical evidence to determine whether he was eligible for FECA benefits. It requested that he submit medical evidence which contained a firm diagnosis and a physician's opinion supported by a medical explanation as to how the work activities in his federal employment caused, contributed to, or aggravated his medical condition. In a separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded both parties 30 days to respond.

In medical reports dated September 27 and October 21, 2019, Dr. Edward King, Board-certified in occupational medicine, evaluated appellant for right hand and middle finger pain. He noted appellant's employment as a sheet metal mechanic and the development of his symptoms as

they related to his use of a rivet gun. Dr. King diagnosed tendinitis of the right middle finger and released him to return to work with restrictions.

In medical reports dated from October 17, 2019 to January 24, 2020 Dr. Adham diagnosed right trigger finger of the right middle finger and right hand pain and detailed his treatment of appellant's condition through the use of steroid injections. In his January 24, 2020 medical report, he observed that the steroid injections did not give significant relief and suggested that appellant undergo a right long finger trigger release.

In a January 27, 2020 operative report, Dr. Adham performed a right middle finger trigger release. He provided discharge instructions of even date that explained that trigger finger is caused when the sheaths of the flexor tendons of the thumb and fingers become swollen and put pressure on the tendons, locking the fingers into a bent position. Dr. Adham stated that trigger finger is often the result of repetitive gripping motions.

In a February 11, 2020 medical report, Dr. Adham evaluated appellant after his January 27, 2020 surgery to treat his trigger middle finger of the right hand and instructed him to follow up in one month.

In an undated statement, the employing establishment agreed with appellant's allegations and provided that he performed nose cowl refurbishment for six to seven hours a day. It also submitted a position description of his duties as a sheet metal mechanic.

By decision dated March 16, 2020, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that his diagnosed medical condition was causally related to 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,<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</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

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

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

<sup>5</sup> *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).

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>6</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background.<sup>8</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 factors.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that he developed trigger finger of the right middle finger due to factors of his federal employment.

In Dr. Adham's January 27, 2020 hospital record and discharge instructions, he noted performing a right middle finger trigger release to treat appellant's trigger finger of the right middle finger. The discharge instructions explained in general terms that trigger finger is caused when the sheaths of the flexor tendons of the thumb and fingers become swollen and put pressure on the tendons, locking the fingers into a bent position. He noted that trigger finger is often the result of repetitive gripping motions. However, as the physician failed to specifically attribute the condition to the employment factors, this report is insufficient to establish his burden of proof.<sup>10</sup> Without explaining how, physiologically, appellant's use of his right middle finger to use his tools caused or contributed to his diagnosed condition, Dr. Adham's January 27, 2020 medical evidence is of limited probative value.<sup>11</sup>

Dr. Adham's remaining medical evidence consisted of medical reports dated from October 17, 2019 to February 11, 2020 in which he discussed his use of steroid injections to treat appellant's symptoms of pain as they related to his trigger finger of the right middle finger. However, he did not specifically discuss how or why appellant's condition was caused or

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<sup>6</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>7</sup> *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>8</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>9</sup> *Id.*; *Victor J. Woodhams*, *supra* note 6.

<sup>10</sup> *Supra* note 8 and 9; see also *S.G.*, Docket No. 18-1271 (issued March 1, 2019).

<sup>11</sup> *M.M.*, Docket No. 19-0061 (issued November 21, 2019); see *L.M.*, Docket No. 14-0973 (issued August 25, 2014); *R.G.*, Docket No. 14-0113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-0548 (issued November 16, 2012).

aggravated by the accepted factors of his federal employment.<sup>12</sup> As stated previously, without explaining how appellant's employment factors caused or contributed to his diagnosed condition, Dr. Adham's remaining medical evidence is of limited probative value.<sup>13</sup>

In medical reports dated from September 27 to October 21, 2019, Dr. King evaluated appellant for right hand and middle finger pain. He acknowledged his employment as a sheet metal mechanic and the development of his symptoms as they related to his use of a rivet gun and diagnosed tendinitis of the right middle finger. The Board finds that Dr. King did not offer medical rationale sufficient to explain how and why he believes appellant's employment factors could have resulted in or contributed to the diagnosed condition. Without explaining how appellant's use of a rivet gun caused or contributed to his condition, Dr. King's medical reports are of limited probative value.<sup>14</sup>

The remaining medical evidence consisted of a September 27, 2019 medical report from Ms. Deppen. The Board has consistently held that certain healthcare providers such as physician assistants, registered nurses, physical therapists, and social workers are not considered physician[s] as defined under FECA.<sup>15</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>16</sup>

As appellant has not submitted rationalized medical evidence establishing that his trigger finger of the right middle finger is causally related to the accepted factors of his federal employment, the Board finds that he has not met his burden of proof to establish his 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 his burden of proof to establish that he developed trigger finger of the right middle finger due to factors of his federal employment.

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<sup>12</sup> *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>13</sup> *Supra* note 11.

<sup>14</sup> *See A.P.*, Docket No. 19-0224 (issued July 11, 2019).

<sup>15</sup> 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

<sup>16</sup> Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013). *See also T.W.*, Docket No. 19-1412 (issued February 3, 2020); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *D.H.*, Docket No. 18-0072 (issued January 21, 2020) (physical therapists are not considered physicians under FECA).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 16, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 12, 2020  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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