

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

M.D., Appellant)	
)	
and)	Docket No. 21-0349
)	Issued: July 1, 2021
U.S. POSTAL SERVICE, SAN FRANCISCO)	
AIR MAIL CENTER, San Francisco, CA,)	
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 January 4, 2021 appellant filed a timely appeal from a December 9, 2020 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.²

ISSUE

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

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the December 9, 2020 decision, OWCP received additional evidence and appellant also submitted additional evidence on appeal. 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. *Id.*

FACTUAL HISTORY

On October 5, 2020 appellant, then, a 56-year-old parcel post distributor (machine), filed an occupational disease claim (Form CA-2) alleging that she developed right middle trigger finger due to factors of her federal employment, including repetitive motion. She asserted that she experienced pain in her right middle finger and when she closed her hand, her middle finger makes a clicking sound and locks, forcing her to use her left hand. Appellant noted that she first became aware of her condition and its relation to her federal employment on September 21, 2020. She did not stop work.

In an October 16, 2020 development letter, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and attached a factual questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information including comments from a knowledgeable supervisor and an explanation of appellant's work activities. It afforded both parties 30 days to submit the necessary evidence.

In a September 21, 2020 report, Dr. Karl Lee, an internist, diagnosed right middle trigger finger. In a work status report of even date, he found that appellant was unable to work from September 21 to October 6, 2020 due to pain in her right hand. In a separate work status report of even date, Dr. Douglas Thierer, Board-certified in occupational medicine, also diagnosed right middle trigger finger and provided work restrictions.

Appellant, in an October 9, 2020 statement, contended that her work activities contributed to her injury. She noted that her work duties consisted of repetitive keying, feeding mail to and clearing mail from machines, lifting, tying sacks, gripping bundles of mail to process, and sorting mail. Appellant explained that she performed these repetitive activities every day at the employing establishment for eight hours a day. She noted that she had no hobbies or activities outside work that were relevant to her working conditions and indicated that she only used her personal computer limited to checking e-mail and paying bills. Appellant asserted that she experienced pain in her middle finger, which would get stuck in a bent position and would only bend or straighten with a snap. She indicated that she was diagnosed with right middle trigger finger on September 21, 2020 and received a cortisone injection in her right palm.

In an October 16, 2020 response to OWCP's development questionnaire, the employing establishment concurred with appellant's allegations and noted that appellant's work duties consisted of keying, lifting, tying sacks, feeding mail to machines, clearing mail from machines, and sorting mail.

In an October 21, 2020 doctor's first report of occupational injury or illness, Dr. Thierer noted that appellant had been working at the employing establishment since February 13, 1988. Appellant reported that, when she made a fist, her right middle finger would lock and she could not extend at the proximal interphalangeal joint. Dr. Thierer summarized appellant's job duties as requiring repetitive hand activities, including gripping, grasping, pushing, pulling, lifting, and keyboard use. He conducted a physical examination and diagnosed right middle trigger finger. Dr. Thierer also noted that appellant had pain related to repetitive pulling, pushing, lifting, and keyboard use. He provided work restrictions.

In an October 26, 2020 response to OWCP's development questionnaire, appellant again asserted that her repetitive work duties, including repetitive keying, feeding mail to machines, clearing mail from machines, lifting, tying sacks, gripping pouches/bundles of mail to process, and sorting mail daily, caused her injury. She reiterated that she performed these work duties every day at the employing establishment for eight hours per day.

Dr. Thierer, in a November 3, 2020 report, indicated that he had conducted a physical examination, which demonstrated full range of motion except for slightly decreased range of motion in the right middle finger's metacarpophalangeal joint and proximal interphalangeal joint with flexion and extension. He reviewed an October 21, 2020 x-ray of appellant's right hand, which revealed no acute fracture or dislocation, but demonstrated ulnar styloid old tiny avulsion fracture and mild degenerative joint disease at right thumb joints. Dr. Thierer diagnosed right middle trigger finger and repetitive strain injury. He indicated that appellant could return to work with restrictions.

In a November 17, 2020 report, Dr. Thierer reiterated his findings and diagnoses.

In a November 24, 2020 report, Dr. David W. Zeltser, a vascular surgeon, noted that appellant previously received a corticosteroid injection. He diagnosed right middle trigger finger and noted that her condition was aggravated by repetitive motions. Dr. Zeltser indicated that appellant no longer experienced pain or clicking in her right middle finger.

In a December 1, 2020 work status report, Dr. Thierer reiterated his diagnoses.

By decision dated December 9, 2020, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed right middle finger condition and the accepted factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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.⁵ 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.⁶

³ *Supra* note 1.

⁴ *J.W.*, Docket No. 18-0678 (issued March 3, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.S.*, Docket No.18-0657 (issued February 26, 2020); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *L.J.*, Docket No. 19-1343 (issued February 26, 2020); *R.R.*, Docket No. 18-0914 (issued February 24, 2020); *Delores C. Ellyett*, 41 ECAB 992 (1990).

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.⁷

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁸ 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.⁹

ANALYSIS

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

In his October 21, 2020 report, Dr. Thierer noted that appellant's job required repetitive activities, including gripping, grasping, pushing, pulling, lifting, and keyboard use. He conducted a physical examination and diagnosed right middle trigger finger. Although he noted that appellant engaged in such activities as gripping and grasping at work, Dr. Thierer offered no opinion on the causal relationship of appellant's job duties and the diagnosed right middle trigger finger. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹⁰ As such, Dr. Thierer's October 21, 2020 report is insufficient to establish appellant's claim.

In a November 24, 2020 report, Dr. Zelster diagnosed right middle trigger finger and opined that appellant's condition was aggravated by repetitive motions. However, he did not describe appellant's work duties in detail or provide adequate medical rationale in support of his opinion that appellant's job duties aggravated right middle trigger finger. As previously stated, a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹¹ Thus, Dr. Zelster's report is also insufficient to establish causal relationship.

In reports dated September 21, November 3 and 17, and December 1, 2020, Dr. Thierer conducted a physical examination, reviewed the October 21, 2020 x-ray of appellant's hand, and

⁷ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

⁸ *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *R.G.*, Docket No. 18-0792 (issued March 11, 2020); *D.J.*, Docket No. 19-1301 (issued January 29, 2020); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ *M.R.*, Docket No. 19-1954 (issued March 1, 2021); *V.L.*, Docket No. 20-0884 (issued February 12, 2021).

¹¹ *Id.*

diagnosed right middle trigger finger and repetitive strain injury. However, these reports are of no probative value because Dr. Thierer failed to provide an opinion as to whether appellant's right middle trigger finger condition was related to the accepted employment factors. Similarly, in his September 21, 2020 report, Dr. Lee also failed to provide an opinion on causation. 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 Thus, these reports are insufficient to establish appellant's claim.

Dr. Lee, in his September 21, 2020 work status report, opined that appellant was unable to work due to pain in her right hand. The Board has consistently held that a diagnosis of "pain" does not constitute the basis for payment of compensation, as pain is a symptom not a specific diagnosis.¹³ Furthermore, the Board has held that a medical report lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship is of no probative value.¹⁴ As Dr. Lee did not offer a valid medical diagnosis, his report is insufficient to establish causation.

Appellant has not submitted rationalized medical evidence establishing that her diagnosed right middle trigger finger condition is causally related to the accepted factors of her federal employment. Thus, the Board finds that she has not met her burden of proof to establish her 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 a right middle finger condition causally related to the accepted factors of her federal employment.

¹² *D.M.*, Docket No. 20-1347 (issued January 29, 2021); *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019).

¹³ *T.S.*, Docket No. 20-0343 (issued July 15, 2020); *D.H.*, Docket No. 19-0931 (issued October 2, 2019); *R.R.*, Docket No. 18-1093 (issued December 18, 2018); *A.C.*, Docket No. 16-1587 (issued December 27, 2016); *Robert Broome*, 55 ECAB 339 (2004).

¹⁴ *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

ORDER

IT IS HEREBY ORDERED THAT the December 9, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 1, 2021
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