

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

D.A., Appellant)	
)	
and)	Docket No. 22-0048
)	Issued: November 8, 2022
DEPARTMENT OF THE NAVY, MARINE)	
CORPS AIR STATION, Cherry Point, NC,)	
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, Deputy Chief Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On October 12, 2021 appellant filed a timely appeal from a July 26, 2021 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 bilateral carpal tunnel syndrome (CTS) causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On April 28, 2021 appellant, then a 66-year-old maintenance mechanic, filed an occupational disease claim (Form CA-2) alleging that he developed bilateral CTS as a result of

¹ 5 U.S.C. § 8101 *et seq.*

factors of his federal employment, including heavy lifting and repetitive use of various tools with both hands. He noted that he first became aware of his condition and realized its relationship to his federal employment on April 14, 2016. Appellant did not stop work.

In an undated statement, appellant indicated that the constant vibration and heavy lifting associated with operating electric drills, saws, post-hole diggers, weed whackers, sanders, and grinders contributed to chronic pain in both hands.

In a medical report dated January 8, 2016, Dr. David J. Kirby, a Board-certified sports medicine specialist, noted that appellant related complaints of bilateral wrist pain, numbness and tingling, right greater than left, which had been worsening for several years. He related that appellant denied any injury and indicated that his symptoms were most severe at night. Dr. Kirby reviewed x-rays and diagnosed severe osteoarthritis of both wrist joints.

In a medical report dated January 13, 2016, Dr. Jeffrey K. Moore, a Board-certified orthopedic surgeon, noted that appellant was scheduled to undergo right endoscopic carpal tunnel release surgery on January 14, 2016. He diagnosed bilateral CTS, hand pain, and primary osteoarthritis and noted that electromyography and nerve conduction velocity (EMG/NCV) studies should be conducted.

Dr. Kirby, in a report dated January 21, 2016, indicated that appellant underwent a right endoscopic carpal tunnel release on January 14, 2016, and was still reporting moderate pain, numbness, and tingling in the thumb, index, and long fingers. He continued to diagnose bilateral CTS and recommended light-duty work.

In a report dated February 8, 2016, Dr. Moore noted that appellant related ongoing complaints and indicated that he was on restricted duty at work with no use of the right hand.

In a report dated December 3, 2018, Dr. Moore noted that appellant had participated in occupational therapy and had undergone an injection on October 12, 2018, which did not provide significant relief. He performed an examination of the right hand and wrist, which revealed mild tingling in the index and long fingertips. Dr. Moore also examined the left hand and noted substantial sensation deficit in the distribution of the median nerve and positive Phalen's test and Tinel's sign. He opined that appellant's left hand remained "very symptomatic" from CTS and recommended that he undergo surgery.

In a medical report dated April 19, 2021, Dr. Moore noted that appellant related recurrent symptoms in the right hand and worsening symptoms in the left hand. He performed a physical examination, which remained unchanged, and again recommended endoscopic carpal tunnel release surgery on the left hand. Dr. Moore opined that some of appellant's symptoms may be due in part to the significant underlying degenerative arthritis in both wrists.

In a May 12, 2021 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's alleged injury, including comments from a knowledgeable supervisor regarding the accuracy of

his allegations and an explanation of any areas of disagreement. It afforded both parties 30 days to submit the requested evidence.

In a May 24, 2021 response to OWCP's letter, T.D., an employing establishment supervisor, indicated that he had been appellant's supervisor since April 25, 2021 and had learned of his occupational injury claim on April 27, 2021. He noted that he had observed him wearing wrists braces for several years, which he believed was for pain and numbness in his hands.

In a May 28, 2021 response to OWCP's development questionnaire, appellant noted that he had been working as a maintenance carpenter for over 25 years, which involved strenuous lifting, pulling, and pushing of materials and use of power tools, shovels, drills and hammers. He believed these work duties caused problems with his wrists and hands and noted that the surgery he underwent to his right hand did not help his symptoms.

By decision dated July 26, 2021, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish bilateral CTS causally related to the accepted factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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,³ 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.⁴ 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.⁵

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.⁶

² *Id.*

³ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312(1988).

⁵ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Dolores C. Ellyett, id.*

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ The opinion of the physician must be based upon a complete factual and medical background, 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 the specific employment incident.⁸

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.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish bilateral CTS causally related to the accepted factors of his federal employment.

In his reports, Dr. Moore noted appellant's complaints of pain, numbness and tingling in the wrists, hands and fingers and diagnosed bilateral CTS and primary osteoarthritis of the wrists. He performed surgery to the right wrist on January 14, 2016 and opined that ongoing symptoms thereafter may be related to osteoarthritis. However, Dr. Moore did not provide an opinion on the cause of the diagnosed conditions. 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.¹⁰ Therefore, the Board finds that Dr. Moore's reports are insufficient to meet appellant's burden of proof.

Similarly, Dr. Kirby diagnosed bilateral CTS and severe osteoarthritis of both wrist joints, but did not offer an opinion on the cause of the diagnosed conditions. As noted above, 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.¹¹ Therefore, Dr. Kirby's reports are also insufficient to establish appellant's burden of proof.

As the medical evidence of record is insufficient to establish bilateral CTS causally related to the accepted factors of his federal employment, the Board finds that appellant has not met his burden of proof.

⁷ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹⁰ *See L.B.*, *supra* note 8; *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ *Id.*

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 bilateral CTS causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the July 26, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 8, 2022
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board