

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

D.F., Appellant)	
)	
and)	Docket No. 22-0818
)	Issued: September 1, 2022
DEPARTMENT OF VETERANS AFFAIRS,)	
VETERANS BENEFITS ADMINISTRATION,)	
VA ST. LOUIS REGIONAL OFFICE,)	
St. Louis, MO, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On May 2, 2022 appellant filed a timely appeal from an April 13, 2022 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 a hand condition causally related to the accepted factors of his federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On August 10, 2021 appellant, then a 52-year-old veterans claims examiner, filed a traumatic injury claim (Form CA-1) alleging that he developed bilateral carpal tunnel syndrome (CTS) on approximately January 1, 2020 as a result of typing while in the performance of duty. He explained that he was diagnosed with CTS over a year ago. Appellant did not stop work. Based on the description of injury, on August 23, 2021 OWCP converted his claim to an occupational disease claim (Form CA-2) because the alleged employment activities occurred over a period longer than one workday or shift.

In an August 25, 2021 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required 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 regarding the accuracy of appellant's allegations. It afforded both parties 30 days to respond.

After visit summaries dated July 16, August 6 and 26, 2019, noted that appellant was treated by Dr. Timothy Jennings, an osteopath Board-certified in osteopathic manipulative medicine, for paresthesia and pain of the upper extremities and trigger ring and middle finger of the right hand.

A medical report dated August 11, 2021 from Dr. Jennings related that appellant's wrist pain had returned and that he had also developed low back pain. Dr. Jennings diagnosed bilateral CTS, noted that appellant's work was physical in nature, and opined that he "undoubtedly" had a work-related injury.

On August 26, 2021 appellant responded to OWCP's development questionnaire. He explained that he began experiencing wrist pain in early 2019 and was diagnosed with bilateral CTS in August 2019. Appellant indicated that in July 2021 he developed numbness in his hands and fingertips, and as a result, he sought medical treatment.

OWCP received a statement from appellant dated September 10, 2021, asserting that his pain radiated to his forearms and was interrupting his sleep.

On September 15, 2021 the employing establishment responded to OWCP's development questionnaire explaining that appellant had not initially reported any injuries to management and that it was unknown whether he engaged in any physical exertion activities.

By decision dated September 27, 2021, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition causally related to the accepted factors of his federal employment. Thus, it concluded that the requirements had not been met to establish an injury as defined under FECA.

On October 4, 2021 appellant filed a request for a hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP continued to receive additional evidence. Dr. Jennings, in progress notes dated August 11, 2021, noted that appellant continued to complain of bilateral hand pain and needed a

referral to a hand specialist. In a September 8, 2021 form report, Dr. Jennings held appellant off work from September 7 to 30, 2021 due to ongoing symptoms related to his bilateral CTS.

OWCP also received progress notes dated September 11, 2019 and September 30, 2021 from Dr. Vic Glogovac, a Board-certified orthopedic hand surgeon, who diagnosed right CTS and right ring trigger finger.

An October 15, 2021 operative report noted that Dr. Glogovac performed right carpal tunnel decompression and release of A1 pulley of the right ring finger. OWCP also received October 22, 2021 postoperative notes holding appellant off from work until his follow-up appointment. Appellant was subsequently seen for follow up on October 29, 2021 and Dr. Glogovac noted that he was scheduled to undergo left carpal tunnel release on December 3, 2021. In a report of even date, Dr. Glogovac responded to a request from the employing establishment for medical documentation. He noted that appellant underwent right carpal tunnel release and would later undergo surgery on the left hand. Dr. Glogovac further indicated that his medical condition affected his ability to perform his work duties, including using a keyboard for typing or manipulating, and twisting his wrists.

In a December 3, 2021 operative report, Dr. Glogovac indicated that appellant underwent surgery on his left hand to treat his diagnosed CTS.

On February 10, 2022 a telephonic hearing was held before an OWCP hearing representative. Appellant confirmed that he had undergone surgery on both hands and further testified that he had no previous injuries to his hands, arms, or wrists. The hearing representative held the case record open for 30 days for the submission of additional medical evidence.

In a March 3, 2022 statement, appellant detailed his treatment with Dr. Jennings and clarified his dates of surgery. He also noted that he had submitted additional medical evidence in support of his claim.

By decision dated April 13, 2022, the hearing representative modified OWCP's September 27, 2021 decision, finding that appellant had established a diagnosed medical condition. However, the claim remained denied as the medical evidence of record was insufficient to establish that appellant's bilateral CTS was 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 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,³ that an injury was sustained in the performance of duty, as

² *Supra* note 1.

³ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

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, 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 identified employment factors.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue. A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background. 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 factor(s).⁷

ANALYSIS

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

In his August 11, 2021 progress note, Dr. Jennings noted appellant's diagnosis for bilateral CTS and ongoing complaints of pain. He related that appellant's work duties were physical and opined that his condition was "undoubtedly" work related. The Board finds that Dr. Jennings' opinion was conclusory in nature and failed to provide the necessary medical rationale to explain, physiologically, how the accepted employment factors caused the diagnosed condition.⁸ This report is, therefore, of limited probative value and insufficient to establish causal relationship.⁹

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

⁵ *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *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).

⁷ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams, id.*

⁸ *F.C.*, Docket No. 21-1420 (issued June 29, 2022); *F.C.* Docket No. 19-1267 (issued December 20, 2019).

⁹ *See D.M.*, Docket No. 21-1244 (issued March 25, 2022); *J.N.*, Docket No. 21-0606 (issued November 23, 2021); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

The remaining evidence of record includes reports and notes from Drs. Jennings and Glogovac dated July 16, 2019 through September 8, 2021 and September 11, 2019 through December 3, 2021, respectively, which provided diagnoses, treatment history, and work restrictions. However, none of these reports contained an opinion on 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.¹⁰ As such, these reports are also insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish a hand condition causally related to the accepted factors of appellant's federal employment, the Board finds that he has not met his burden of proof.

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 a hand condition causally related to the accepted factors of his federal employment.

¹⁰ *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *see D.K.*, Docket No. 17-1549 (issued July 6, 2018).

ORDER

IT IS HEREBY ORDERED THAT the April 13, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 1, 2022
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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