

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

R.R., Appellant	)	
	)	
and	)	Docket No. 22-1368
	)	Issued: June 15, 2023
U.S. POSTAL SERVICE, WEST MILWAUKEE	)	
POST OFFICE, Milwaukee, WI, Employer	)	
	)	

*Appearances:*  
Aaron Aumiller, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On September 28, 2022 appellant, through counsel, filed a timely appeal from a September 7, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (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 causally related to the accepted factors of his federal employment.

---

<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On January 25, 2021 appellant, then a 43-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that he developed bilateral carpal tunnel syndrome due to factors of his federal employment including repetitive use of his wrists while delivering mail over 19 years. He noted that he first became aware of his condition and realized its relation to his federal employment on April 7, 2020. Appellant did not immediately stop work.

In a January 28, 2021 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for his completion. By separate development letter of even date, OWCP requested additional information from the employing establishment. It afforded both parties 30 days to respond.

On December 16, 2020 appellant was treated by Laura Tobon, a nurse practitioner, for a one-year history of bilateral hand paresthesia, pain, and numbness. He reported working as a mail carrier and noted his job required performing repetitive activities. Ms. Tobon diagnosed bilateral carpal tunnel syndrome.

On January 20, 2021 Dr. Peter K. Connelly, a Board-certified physiatrist, treated appellant for progressive bilateral upper extremity numbness, tingling, and pain. Appellant reported using wrist splints at work, which provided no relief in symptoms. Dr. Connelly reviewed an x-ray of the cervical spine dated December 16, 2020, which revealed early changes involving uncovertebral joints of the lower cervical segment. An x-ray of both hands of even date revealed no abnormalities. Dr. Connelly performed an electromyogram (EMG) and nerve conduction velocity (NCV) study, which revealed evidence of moderate-median mononeuropathy at the right wrist (moderate right carpal tunnel syndrome) and mild-to-moderate median mononeuropathy at the left wrist (mild-to-moderate left carpal tunnel syndrome).

Michael G. Ryan, a nurse practitioner, treated appellant on February 3, 2021, for bilateral hand, wrist, and forearm numbness and tingling. Appellant reported working as a letter carrier for approximately 20 years. Findings on physical examination revealed reduced grip strength on the right and positive Phalen's and Tinel's sign at the wrists bilaterally. Mr. Ryan noted an abnormal EMG/NCV study and recommended right carpal tunnel release.

By decision dated March 1, 2021, OWCP denied appellant's claim, finding that he had not established the implicated factors of employment as he had not responded to its January 28, 2021 development questionnaire. It concluded that the requirements had therefore not been met to establish an injury as defined by FECA.

On March 29, 2021 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review and submitted additional evidence.

A March 8, 2021 operative report by Dr. Kenneth Berg, a Board-certified orthopedist, revealed that he performed an open right carpal tunnel release on appellant and diagnosed right carpal tunnel syndrome.

On March 22, 2021 Dr. Daniel A. Ladwig, a Board-certified orthopedist, treated appellant status-post open right carpal tunnel release. Appellant reported the numbness and tingling in both

hands resolved. He noted normal light-touch sensation across the index and long finger with intact motor function in the thumb. Dr. Ladwig returned appellant to work with a 10-pound lifting restriction. He noted that appellant continued to complain of numbness, tingling, and discomfort of the left wrist consistent with left carpal tunnel syndrome and recommended left carpal tunnel release. In an addendum report of even date, Dr. Ladwig indicated that appellant was employed as a letter carrier for over 20 years and experienced symptoms of bilateral carpal tunnel syndrome. He noted that EMG/NCV studies confirmed bilateral carpal tunnel syndrome and appellant was status-post right carpal tunnel release. Dr. Ladwig noted that appellant described various work activities performed over 20 years involving repetitive work activities and both light and moderate lifting activities. He indicated that it was well known that repetitive movement and lifting activities “may” lead to the development or aggravation of carpal tunnel syndrome. Dr. Ladwig noted that appellant’s disease was confirmed by the medical records and clinical examination findings were consistent with carpal tunnel syndrome. He opined, to a reasonable degree of medical certainty, that the work-related activities contributed and/or aggravated his condition resulting in bilateral carpal tunnel syndrome.

By decision dated July 7, 2021, OWCP’s hearing representative affirmed OWCP’s March 1, 2021 decision.

In an undated statement, appellant responded to the development letter and described his work activities that attributed to his bilateral carpal tunnel syndrome. He noted that he cased mail daily for at least two hours, which required grabbing a bucket, placing the bucket on a countertop, unloading the mail onto the countertop, grabbing the mail and placing it into an appropriate slot, and sorting parcels and placing them in order of the route. Appellant indicated that street delivery required him to finger through the presorted letters and flats, break them down into blocks, grab parcels from his bag to deliver to houses, turn vehicle on and off multiple times, open and close vehicle doors multiple times, and open and close multiple mailboxes. He stated that these repetitive activities caused his bilateral carpal tunnel syndrome.

On October 7, 2021 Dr. Ladwig noted that appellant was diagnosed with moderate bilateral carpal tunnel syndrome and underwent right carpal tunnel release in January 2021. He reviewed a description of appellant’s work activities over the past 20 years, which involved repetitive work with light and moderate lifting. Dr. Ladwig advised that repetitive movement and lifting activities may lead to the development or aggravation of carpal tunnel syndrome. He noted EMG/NCV studies were consistent with carpal tunnel syndrome. Dr. Ladwig opined to a reasonable degree of medical certainty that the work-related activities contributed to and/or aggravated his condition resulting in clinical bilateral carpal tunnel syndrome.

On June 9, 2022 appellant, through counsel, requested reconsideration.

By decision dated September 7, 2022, OWCP modified the July 7, 2021 decision, finding that appellant had established the implicated employment factors and that the medical reports established a diagnosis of bilateral carpal tunnel syndrome. The claim remained denied, however, as the medical evidence of record was insufficient to establish causal relationship between a diagnosed medical condition and the accepted factors of his federal employment.

## LEGAL PRECEDENT

A claimant seeking benefits under FECA<sup>3</sup> 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,<sup>4</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>5</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>6</sup>

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.

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> 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 factors.<sup>8</sup>

## ANALYSIS

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

On January 20, 2021 Dr. Connelly treated appellant for progressive bilateral upper extremity numbness, tingling, and pain. He performed an EMG/NCV study, which revealed evidence of moderate right carpal tunnel syndrome and mild-to-moderate left carpal tunnel syndrome. Similarly, on March 8, 2021, Dr. Berg performed an open right carpal tunnel release, and diagnosed right carpal tunnel syndrome. However, these physicians failed to provide an

---

<sup>3</sup> *Id.*

<sup>4</sup> *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *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).

<sup>6</sup> *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).

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

<sup>8</sup> *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

opinion regarding the cause of appellant's bilateral carpal tunnel syndrome.<sup>9</sup> 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.<sup>10</sup> These reports are thus insufficient to establish causal relationship.

In reports dated March 22 and October 7, 2021, Dr. Ladwig noted that appellant was status-post open right carpal tunnel release, and reported resolution of symptoms. In an addendum report, he noted that appellant was employed as a letter carrier for over 20 years and experienced symptoms of bilateral carpal tunnel, which were confirmed by EMG/NCV studies. Appellant described repetitive work activities and both light and moderate lifting activities that he performed over a 20-year period. Dr. Ladwig advised that the medical records and clinical examination findings were consistent with carpal tunnel syndrome. He opined to a reasonable degree of medical certainty that the work-related activities contributed to and/or aggravated appellant's condition resulting in bilateral carpal tunnel syndrome. Although these reports support causal relationship between appellant's bilateral carpal tunnel syndrome and the accepted factors of his federal employment, Dr. Ladwig did not provide rationale explaining his conclusions. Without explaining the mechanism of injury by which the repetitive movements involved in appellant's employment duties caused or contributed to the diagnosis, his opinion is of limited probative value.<sup>11</sup> Thus, these reports are insufficient to meet appellant's burden of proof.

Appellant submitted reports from nurse practitioners. However, certain healthcare providers such as nurse practitioners<sup>12</sup> are not considered "physician[s]" as defined under FECA.<sup>13</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>14</sup>

Appellant also submitted x-rays and an EMG/NCV study. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they

---

<sup>9</sup> *L.D.*, Docket No. 18-1468 (issued February 11, 2019).

<sup>10</sup> *See L.B.*, *supra* note 8; *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>11</sup> *Y.F.*, Docket No. 19-1576 (issued August 4, 2020); *see A.P.*, Docket No. 19-0224 (issued July 11, 2019).

<sup>12</sup> *J.D.*, Docket No. 16-1752 (issued March 1, 2017) (where the Board found that a nurse practitioner is not considered a physician under FECA, thus, her opinion is of no relevance to the issue of causal relationship).

<sup>13</sup> Section 8102(2) of FECA provides as follows: (2) 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. § 8102(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *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); *see also B.D.*, Docket No. 22-0503 (issued September 27, 2022 (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (a nurse practitioner is not considered a physician as defined under FECA).

<sup>14</sup> *Id.*

do not provide an opinion as to whether the employment incident caused any of the diagnosed conditions.<sup>15</sup> This evidence is therefore insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted factors of his federal employment, the Board finds that appellant 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 bilateral carpal tunnel syndrome causally related to the accepted factors of his federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the September 7, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 15, 2023  
Washington, DC

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

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

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

---

<sup>15</sup> See *A.S.*, Docket No. 22-1227 (issued April 6, 2023); *J.L.*, Docket No. 20-1662 (issued October 7, 2022); see *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).