

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

_____)
K.B., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Melville, NY, Employer)
_____)

Docket No. 23-0488
Issued: November 22, 2023

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
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On February 25, 2023 appellant filed a timely appeal from a November 10, 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.²

ISSUE

The issue is whether appellant has met her burden of proof to establish bilateral carpal tunnel syndrome (CTS) 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 November 10, 2022 merit decision, OWCP received additional evidence. 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 August 15, 2022 appellant, then a 42-year-old sales and service distribution associate, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral CTS as a result of factors of her federal employment, including repetitive movements, sorting and delivering mail, and typing. She noted that she first became aware of her condition and realized its relationship to her federal employment on November 8, 2021. Appellant did not stop work.

In an August 24, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim, and provided a questionnaire for completion. OWCP afforded appellant 30 days to submit the requested evidence.

In a medical report dated August 26, 2022, Dr. Wayne Reizner, a Board-certified orthopedic surgeon, noted that appellant related complaints of right arm pain, which she attributed to sorting, computer use, and heavy lifting at work. He performed a physical examination of the upper extremities, which revealed positive Phalen's test and Tinel's sign at the carpal tunnel, bilaterally, and numbness in the median wrists, small fingers, and ulnar ring fingers. Dr. Reizner diagnosed bilateral CTS and cervical radiculopathy. He recommended that appellant undergo electromyography and nerve conduction velocity (EMG/NCV) studies of the upper extremities, and that she utilizes nighttime cockup wrist bracing and elbow extension bracing.

In a September 1, 2022 response to OWCP's questionnaire, appellant indicated that she worked six to seven days per week, six to 10 hours per day, and her job duties included using a keyboard for typing to sell postage and stamps, enter international customs forms, order supplies, and check information. She noted that she also unloaded and distributed mail to carriers and to the sorting case, and delivered mail to the box section which involved repetitive grasping and fine manipulation. Appellant related that she began experiencing numbness, tingling, weakness, and stiffness in her hands and arms five years prior, which progressively worsened as she continued to work.

By decision dated November 10, 2022, 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 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

³ *Supra* note 1.

⁴ *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).

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

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.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ 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.⁹

ANALYSIS

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

In his August 26, 2022 report, Dr. Reizner noted appellant's subjective complaints and physical examination findings and diagnosed bilateral CTS and cervical radiculopathy. He did not, however, 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. Reizner's report is insufficient to meet appellant's burden of proof.

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

⁵ *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).

⁶ *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).

⁷ *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.*

⁸ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

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

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

ORDER

IT IS HEREBY ORDERED THAT the November 10, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 22, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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