

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

C.O., Appellant)	
)	
and)	Docket No. 23-0678
)	Issued: September 28, 2023
U.S. POSTAL SERVICE, POST OFFICE,)	
Pittsburgh, PA, 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
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On April 6, 2023 appellant filed a timely appeal from an October 27, 2022 merit decision and a December 9, 2022 nonmerit 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

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted factors of her federal employment; and

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the December 9, 2022 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.*

(2) whether OWCP properly denied her request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On September 12, 2022 appellant, then a 60-year-old city delivery specialist, filed an occupational disease claim (Form CA-2) alleging that she developed a strain, pain, and inflammation in her left wrist and thumb that worsened while she was working due to factors of her federal employment, including fine manipulation and repetitive movement to sort mail, grasp and wrap bundles of mail, as well as turning doorknobs and using keys to enter locked buildings. She indicated that she first became aware of her condition on March 31, 2020, and realized its relation to her federal employment on August 31, 2022.³ Appellant did not stop work.

In support of her claim, appellant submitted an undated statement relating that in March 2020 she began to experience pain and periodic inflammation in her left wrist and thumb. She indicated that, over the past two years, the pain increased significantly and was aggravated by her work duties, which included manipulation of letters and magazines, sorting, grasping, pulling, and bundling mail with rubber bands. Appellant explained that she performed these tasks for one and a half to five hours daily, five days per week. She performed additional tasks during her eight-hour shift, five days per week, including grasping, manipulation of mail, unbundling, opening doors, and using keys to enter locked buildings, and noted that these tasks had become increasingly difficult.

On August 31 2022 Dr. David Stone, a Board-certified physiatrist, referred appellant for a left wrist magnetic resonance imaging (MRI) scan and noted diagnoses of extensor carpi ulnaris tendinitis and a degenerative tear of the triangular fibrocartilage complex (TFCC). In a letter of even date, a healthcare provider with an illegible signature noted that appellant had a left wrist TFCC injury with extensor capri ulnaris tendinopathy that was related to her work in the employing establishment.

In a September 16, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a factual questionnaire for her completion. In a development letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor. It afforded both parties 30 days to submit the requested evidence.

In an undated response to the development letter, an employing establishment supervisor, R.A., related that appellant was a full-time mail carrier and cased mail for one to two hours daily, which involved fine manipulation with her hands and wrists while placing letters and flats into cases. Appellant's duties also included carrying mail on a route which included, five to six hours of walking, climbing steps, one to two hours of driving, standing while casing, and reaching above and below eye level to place mail in a case. R.A. noted that in the past year appellant was on

³ In OWCP File No. xxxxxx463, appellant had a previously accepted traumatic injury claim (Form CA-1) for a contusion of the lower back, contusion of the right hand, and contusion of the left forearm. The case has not been administratively combined by OWCP with the present file.

limited duty and was off work from January until June 2022 due to another injury not involving her wrists. He explained that she never brought to his attention nor complained about her wrists until she filed a Form CA-2, so the employing establishment was unable to take precautions for her wrists, and that her work area was indoors with a four-foot wide by six-foot high casing area. R.A. noted that appellant claimed that the casing and delivery of mail caused the development of her condition.

In a September 13, 2022 challenge letter, the employing establishment controverted the claim, asserting that appellant's medical documentation lacked a detailed statement from her physician with diagnostic findings establishing that the injury was a result of her employment duties.

In a September 29, 2022 statement, appellant explained that, as a letter carrier, her duties included manipulation of magazines and letters, sorting, grasping, pulling, bundling and unbundling mail with rubber bands, and turning keys in locks for eight hours per day, five days per week. Her outside hobbies included gardening and she first noticed the condition on approximately March 31, 2020 and experienced pain and inflammation in both wrists and thumbs after completing daily tasks. Appellant indicated that she had arthritis in other parts of her body, but was never diagnosed with arthritis in her wrists, and she broke a wrist in May 2022 and wore a cast for six weeks. She noted that while her original claim was for her left wrist, both her left and right wrists were affected in the same manner.

In a statement dated September 30, 2022, appellant noted that she experienced inflammation and pain that increased over time due to her work duties, and she was diagnosed on August 31, 2022 with extensor carpi ulnaris tendinitis and a degenerative tear of the fibrocartilage complex of the left wrist, supported by documents she provided. She explained that she experienced the same inflammation and pain in her right wrist, had been a Pittsburg City letter carrier for 23 years, and performed her work duties daily for eight hours per day, five days per week, sometimes longer. Appellant indicated that the relationship between her diagnosis and her federal employment included her duties of manipulating letters and magazines, sorting, grasping, pulling, bundling and unbundling large groups of mail with rubber bands, and frequently turning keys to open and close doors and mailboxes. She asserted that the repetitive motion and strain on her thumb and wrist caused her pain and inflammation to increase to extreme levels over time. Appellant also related that the note signed by Dr. Stone, which was found by OWCP to be illegible, displayed his name beneath his signature and stated that the diagnosed condition was directly caused by her job duties, and the other documents that she submitted were signed by a physician.

In an October 24, 2022 note, Dr. Stone noted that he treated appellant on August 31, 2022 for bilateral wrist pain, left greater than right, of two years' duration. He indicated that she reported pain in the carpometacarpal joint and ulnar side of her wrist and that her symptoms were worse when writing and turning a door key. Dr. Stone related that appellant had a history of cervical spinal stenosis, which she felt might be contributing to her symptoms, and that she worked in a post office and engaged in repetitive activity that aggravated her symptoms. He explained that she had a prior history of wrist fracture which was treated with casting, and that prior x-rays indicated degenerative joint disease (DJD) of the thumb carpometacarpal joint. Dr. Stone diagnosed a TFCC injury related to appellant's prior fall, carpometacarpal joint DJD, and extensor carpi ulnaris tendinopathy. He noted that her duties included sorting, grasping, and bundling of mail, which

had the potential to create an overuse injury such as extensor carpi ulnaris tendinopathy, and that her TFCC injury could potentially be related to overuse, though it was possibly related to her prior fall and fracture, which would explain why her symptoms persisted despite the healing of her fracture. Dr. Stone opined that the persistent use of appellant's thumb to grip, hold, and manipulate mail was likely the cause of her arthritis in the carpometacarpal joint of the thumb, and that DJD of the thumb naturally worsens over time. He also indicated that a TFCC injury can result in DJD of the wrist, depending on where the tear is located, and that extensor carpi ulnaris tendinopathy is considered an overuse injury.

By decision dated October 27, 2022, OWCP accepted that the employment factors occurred, as alleged. However, it denied appellant's occupational disease claim, finding that she had not submitted evidence containing a medical diagnosis in connection with the accepted factors of her federal employment. Consequently, OWCP found that the requirements had not been met to establish an injury as defined by FECA.

On December 8, 2022 appellant requested reconsideration of the October 27, 2022 decision and submitted additional evidence, including a November 30, 2022 MRI scan report of her left wrist which noted an impression of ulnar impaction syndrome with an extensive macerated full-thickness TFCC tear, full-thickness tears through the membranous segments of the scapholunate and lunotriquetral ligaments, severe thumb carpometacarpal joint osteoarthritis, and tendinopathy and low-grade partial tearing to the extensor carpi ulnaris with subluxation from the ulnar groove due to subs heath tear.

By decision dated December 9, 2022, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA⁴ 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,⁵ 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.⁶ 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.⁷

⁴ *Supra* note 1.

⁵ *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).

⁶ *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).

⁷ *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).

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.⁸

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁹ 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 the specific employment factor(s) identified by the employee.¹⁰

ANALYSIS -- ISSUE 1

The Board finds that appellant has established a diagnosed medical condition in connection with the accepted factors of her federal employment.

In an October 24, 2022 note, Dr. Stone noted that he treated appellant on August 31, 2022 for bilateral wrist pain, left greater than right. He indicated that she had a prior history of wrist fracture and that x-rays demonstrated evidence of DJD of the thumb carpometacarpal joint. Dr. Stone diagnosed a TFCC injury related to appellant's prior fall, carpometacarpal joint DJD, and extensor carpi ulnaris tendinopathy. He explained that her employment duties included sorting, grasping, and bundling of mail, which had the potential to create an overuse injury such as extensor carpi ulnaris tendinopathy, and that the TFCC injury could potentially be related to overuse, though it was possibly related to her previous fall and fracture. Dr. Stone opined that the persistent use of appellant's thumb to grip, hold, and manipulate mail was likely the cause of her arthritis in the carpometacarpal joint of the thumb and noted that DJD in the thumb becomes worse over time. He also indicated that a TFCC injury can result in DJD of the wrist, depending on where the tear is located, and that extensor carpi ulnaris tendinopathy is considered an overuse injury.

In light of the foregoing diagnoses by appellant's attending physician, the Board thus finds that the evidence of record establishes diagnoses in connection with the accepted factors of her federal employment. The Board further finds, however, that the case is not in posture for decision with regard to whether any or all of the diagnosed medical conditions are causally related to the accepted employment factors.

⁸ *T.D.*, Docket No. 20-0921 (issued November 12, 2020); *M.S.*, Docket No. 18-1554 (issued February 8, 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).

⁹ *S.A.*, Docket No. 18-0399 (issued October 16, 2018); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁰ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 8.

As the medical evidence of record establishes diagnosed medical conditions, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship.¹¹ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met her burden of proof to establish an injury causally related to the accepted factors of her federal employment.¹²

CONCLUSION

The Board finds that appellant has met her burden of proof to establish diagnosed medical conditions in connection with the accepted factors of her federal employment. The Board further finds, however, that the case is not in posture for decision with regard to whether the diagnosed medical conditions are causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the October 27, 2022 decision of the Office of Workers' Compensation Programs is reversed in part and set aside in part, and the case is remanded for further proceedings consistent with this decision of the Board. The December 9, 2022 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: September 28, 2023
Washington, DC

Alec J. Koromilas, 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

¹¹ See *R.C.*, Docket No. 22-1099 (issued December 28, 2022); *F.D.*, Docket No. 21-1045 (issued December 22, 2021).

¹² In view of the Board's disposition of Issue 1, Issue 2 is rendered moot.