

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PENNY L. COLLENDER and SOCIAL SECURITY ADMINISTRATION,
OFFICE OF HEARINGS AND APPEALS, Fresh Meadows, NY

*Docket No. 98-1740; Submitted on the Record;
Issued February 3, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained carpal tunnel syndrome in the performance of duty.

On June 18, 1997 appellant, then a 30-year-old attorney-adviser, filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that her bilateral carpal tunnel syndrome arose from her employment. On the reverse of the form appellant's supervisor indicated that appellant did not stop working.

In a statement accompanying the claim, appellant stated that she experienced bilateral wrist pain while typing decisions on a computer. Appellant stated that, upon notifying her supervisor of her condition, she began dictating her decisions. Appellant noted seeking medical treatment for her condition but medical evidence did not accompany her statement.

In a September 3, 1997 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in her claim was not sufficient to determine whether she was eligible under the Federal Employees' Compensation Act.¹ The Office advised appellant of the additional medical and factual evidence needed to support her claim.

By decision dated February 3, 1998, the Office denied appellant's claim. The Office found that, while the evidence of file supported that appellant experienced the claimed work factor, the evidence did not establish that a condition had been diagnosed in connection with the work factor because there was no medical evidence submitted in the claim. Therefore, it was determined that an injury within the meaning of the Act was not demonstrated.

The Board finds that appellant has not met her burden of proof in establishing that she sustained carpal tunnel syndrome in the performance of duty.

¹ 5 U.S.C. §§ 8101-8183.

An employee seeking benefits under the Act has the burden of establishing that 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.⁴

In the instant case, it is not disputed that appellant experienced the claimed work factor, *i.e.*, the computer keying she performed in her position as an attorney-advisor for the employing establishment. However, appellant has submitted no medical evidence establishing that she has, indeed, sustained carpal tunnel syndrome and that this is due to factors of her employment.⁵

As noted above, part of the burden of proof includes the submission of medical evidence establishing that the claimed condition is causally related to employment factors. As appellant has not submitted such evidence, she has not met her burden of proof in establishing her claim.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

⁵ In appellant’s May 1, 1998 application for review to the Board, she submitted factual and medical evidence and contended that such evidence was submitted to the employing establishment prior to the Office’s February 3, 1998 decision. The Board notes, however, that this evidence was apparently not forwarded to the Office as it is not in the case record before the Board. The Board’s jurisdiction is limited to evidence, which was before the Office at the time it rendered the final decision. Inasmuch as this evidence was not considered by the Office, it cannot be considered by the Board. 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting such evidence to the Office as part of a reconsideration request.

The decision of the Office of Workers' Compensation Programs dated February 3, 1998 is hereby affirmed.

Dated, Washington, D.C.
February 3, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member