U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ZOLETA D. FRISON-RANDLER and U.S. POSTAL SERVICE, HAYWARD REMOTE ENCODING CENTER, Hayward, CA

Docket No. 01-82; Submitted on the Record; Issued September 5, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON, WILLIE T.C. THOMAS

The issue is whether appellant is entitled to wage-loss compensation for any period on and after September 2, 1998 due to her accepted right wrist tendinitis.

The Office of Workers' Compensation Programs accepted that appellant, then a 41-year-old data conversion operator in temporary duty status, sustained right wrist tendinitis on or before December 1, 1996 in the performance of duty. Appellant first sought medical care for her right wrist problem on February 2, 1997, at which time Dr. H. Geoffrey Watson, an attending Board-certified orthopedic surgeon of professorial rank, diagnosed "rule out carpal tunnel syndrome," and prescribed medication and diagnostic testing. Appellant continued to work as a data conversion operator, without modification of her duties, until she stopped work on September 2, 1998 and did not return.[1] In her claim form, appellant stated that she first related her right hand and wrist pain to work factors on September 2, 1998 and reported her right hand and wrist condition to her supervisor on September 8, 1998.

In a September 8, 1998 letter, Lany Gonzales, an employing establishment supervisor, stated that appellant reported to him on September 8, 1998 with an obviously swollen right hand and a "lump or a knot on her right wrist." Appellant asserted that on September 2, 1998, she had fallen at home, landing on her right hand.[2] Mr. Gonzales provided data entry production records showing that from January 7, 1997 through September 2, 1998, appellant performed from

[1] In a September 14, 1998 letter, the employing establishment advised appellant that she would not be reappointed when her transitional employment term ended on September 23, 1998.

[2] In a September 9, 1998 letter, Andrea Malone, an employing establishment manager, noted that appellant reported to her on September 2, 1998 and "advised me that she had fell at home earlier that day while washing her automobile. She advised me that she had a very bad sprain to her right hand and that she was in a lot of pain," and "would like to go home to seek medical attention." Ms. Malone had appellant fill out a leave slip to seek medical attention due to falling "on hand at home, has a bad sprain -- going to doctor tomorrow, in pain."

approximately 7,300 to 10,600 key strokes per hour during her eight-hour work shift, four days per week.

In an October 15, 1998 report, Dr. Edward Diao, a Board-certified orthopedic surgeon of professorial rank, noted a "one-year history of hand pain, right greater than left … involv[ing] the entire upper extremity," with "spontaneous onset of swelling in her right hand related to work." Dr. Diao noted tenderness throughout the upper extremities, bilaterally positive Tinel's and Phalen's signs and a volar ganglion cyst. He diagnosed "[b]ilateral upper extremity repetitive stress injuries … entirely work related," held appellant off work and prescribed physical therapy. Dr. Diao noted similar findings and continued to hold appellant off work in reports through December 17, 1998

In a November 3, 1998 report, Dr. Watson diagnosed carpal tunnel syndrome based on a bilaterally positive Tinel's sign, right greater than left and other objective clinical findings. He released appellant to modified work as of August 1999 and to regular work as of January 2000.

A November 8, 1998 nerve conduction velocity study of both upper extremities was within normal limits, with a possible "right median sensory antidromic distal latency" likely attributable to limb temperature as opposed to an organic abnormality.[3]

In a December 2, 1998 letter, the Office advised appellant that additional evidence was needed to establish any period of disability related to the accepted right wrist tendinitis. The Office discussed the deficiencies in the record, including a conflicting account of whether her right hand and wrist symptoms on September 2, 1998 were due to work factors or to falling at home. The Office requested that appellant submit a rationalized report from her attending physician discussing causal relationship and specifying any periods of work-related disability.

In a December 22, 1998 report, Dr. Watson noted diagnosing appellant with carpal tunnel syndrome on February 2, 1997 due to keyboarding at work, with consistent findings since that date. He explained that appellant related that she tried to conceal her carpal tunnel syndrome at work as she "feared the possibility of termination … [if she] suffered an injury on the job." Dr. Watson explained that appellant's "carpal tunnel syndrome, wrist swelling, finger numbness, pain, … disability and inability to work beginning on September 2, 1998 are the result of the cumulative effects of her repetitive motion activities involving keypunch work of 9,600 … to 11,000 keys per hour … over a five-year period." Regarding the September 2, 1998 fall at home, he opined that "[t]he suspicion of any gross trauma such as a fall was ruled out by both the history and examination radiographically." He prescribed further treatment and medication.

In a January 20, 1999 report, Dr. Brian Richardson, an attending Board-certified neurologist, found decreased sensation to pinprick in all digits and "[s]evere tenderness … with palpation of the hands, wrists and forearms," trapezius and cervical paraspinous muscles. Dr. Richardson diagnosed a "repetitive stress injury. [Appellant] is unable to work." He reiterated these findings and disability status in reports through June 25, 1999, noting that

[3] December 7, 1998 x-rays of both hands and wrists were normal.

conservative care and cortisone injections failed to relieve appellant's symptoms, but that a trans-cutaneous electrical nerve stimulation unit was helpful.

In a March 17, 1999 report, Dr. John Lavorgna, a Board-certified orthopedic surgeon and second opinion physician, noted negative Tinel's and Phalen's signs bilaterally. Dr. Lavorgna diagnosed "bilateral wrist and forearm tendinitis," and a nonindustrial "ganglion cyst, right wrist." He opined that the September 2, 1998 fall may have worsened her chronic upper extremity symptoms. Dr. Lavorgna stated that appellant had "no significant objective injury-related factors of disability" other than her subjective pain complaints. He stated that appellant was capable of working 8 hours per day, "avoiding keyboard activities or repetitive movements with the wrists and elbows for more than 2 hours during an 8-hour day," a 15-pound lifting limitation and a 10-minute break every 2 hours.

In an April 6, 1999 supplemental report, Dr. Lavorgna stated that appellant "should have no periods of total disability from her tendinitis. I believe that if work restrictions were in place or provided that time for her tendinitis, there would be no lost time work … as her condition is not enough to establish a need for total disability." He commented that appellant's "actual disability had already ceased during the time she was seen by me for evaluation."

In a May 4, 1999 memorandum, the Office found a conflict of opinion between Dr. Lavorgna, for the government and Drs. Diao and Watson, for appellant, regarding the presence of objective findings. To resolve this conflict, the Office referred appellant, the record and a statement of accepted facts to Dr. Ralph Blasier, a Board-certified orthopedist.[4]

In a July 7, 1999 report, Dr. Blasier provided a history of injury and treatment and reviewed the statement of accepted facts and the medical record. On examination, he noted "tenderness of the bilateral cervical … [and] the left trapezius musculature," a right wrist ganglion, "substantial tenderness at the volar aspect of the wrists bilaterally, an equivocal Tinel's sign on the right," positive Phalen's tests bilaterally "completely consistent with" moderate carpal tunnel syndrome, limited range of wrist motion bilaterally and bilateral "loss of sharp sensation … in a very long glove-like distribution." Dr. Blasier also noted that appellant tested positive for three out of four Waddell's signs evaluated, indicative of a "nonphysiologic pain response" exhibited by "regionalization, over reaction and inappropriate tenderness." Dr. Blasier diagnosed right wrist tendinitis, bilateral carpal tunnel syndrome, greater on the right and a ganglion cyst of the right wrist. He opined that appellant's "bilateral forearm tendinitis …

[4] In an April 3, 1999 letter, appellant alleged that Dr. Lavorgna performed an inadequate evaluation and that as he attempted to leave the examining room, she removed her wrist splints and demanded an examination. Dr. Lavorgna then "pressed his finger along [her] trapezius muscle, on the left side only and that was the extent of Dr. Lavorgna's examination. Then he exited the room." Dr. Lavorgna responded by April 9, 1999 letter, asserting that appellant's allegations were "absolutely false" and called into question appellant's account of her subjective symptoms. In a May 4, 1999 memorandum, the Office concerned by Dr. Lavorgna's characterization of appellant as possibly untruthful, requested that an Office medical adviser comment on objective findings, as opposed to subjective findings, in appellant's case. In a May 4, 1999 note, an Office medical adviser stated that the "findings seem to fluctuate. From the more recent second opinion there are no objective findings. In Dr. Diao's review, there is a [positive] Phalen's and tenderness at the ganglion cyst. In most reports, tenderness of the forearms/wrists is noted, which is subjective."

[by] history" had resolved. Dr. Blasier stated that the right wrist tendinitis was "work related by direct cause," but that appellant did not seek treatment or lost time from work from February 2, 1997 until she stopped work on September 2, 1998, "when the medical records indicate that there was an off-the-job fall." Dr. Blasier noted that appellant's subjective complaints were consistent with carpal tunnel syndrome, but the negative electromyogram, inconsistent findings and positive Waddell's signs indicated subjective complaints only without objective work-related pathology.

By decision dated September 21, 1999, the Office found that appellant was not entitled to wage-loss compensation benefits for any period on and after September 2, 1998 as she submitted insufficient medical evidence to establish a total disability for work causally related to the accepted right wrist tendinitis. The Office found that Dr. Blasier's opinion as impartial medical examiner was entitled to the weight of the medical evidence. The Office further found that appellant continued to be entitled to medical benefits for the accepted right wrist tendinitis.

The Board finds that appellant has not established her entitlement to wage-loss compensation for any period on and after September 2, 1998 due to accepted right wrist tendinitis.

To establish a causal relationship between appellant's accepted right wrist tendinitis and any related period of disability, she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factor(s). The opinion of the physician must be based on 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 identified by the claimant.[5] Appellant failed to submit such medical evidence in this case.

The first difficulty with this case is that appellant has failed to submit sufficient medical evidence to establish any period of total disability for work prior to September 2, 1998 due to the accepted right wrist tendinitis. Appellant asserted that her condition first became apparent in December 1996 and that she first sought treatment on February 2, 1997 when Dr. Watson diagnosed possible carpal tunnel syndrome. However, appellant continued to work full duty, with no loss in productivity, through September 2, 1998. Thus, the record demonstrates no period of total disability for work prior to September 2, 1998.

The second difficulty in establishing any disability for work on and after September 2, 1998 is the inconsistent factual history appellant provided. She asserts both that her bilateral hand and wrist condition is due to repetitive keying at work and that she sustained a right hand sprain at home on September 2, 1998 the day she stopped work. Appellant informed her supervisors that her swollen and painful right hand was due to having fallen while washing her car and not to work factors. Dr. Watson, an attending Board-certified orthopedic surgeon,

[5] *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

attempted to explain this inconsistency in his December 22, 1998 report by relating appellant's fear of being terminated from her position if she claimed an injury, noting that the nonoccupational fall could not have caused appellant's chronic right hand and wrist condition. He commented that appellant's "disability and inability to work beginning on September 2, 1998 [was] the result of the cumulative effect" of five years of keyboarding at work. However, Dr. Watson provided insufficient rationale to support his assertion that appellant's condition on and after September 2, 1998 was due to work factors or the accepted right wrist tendinitis and not the nonoccupational injury of that same date. Without such supportive rationale, Dr. Watson's opinion on causal relationship is of limited probative value.[6]

Arguendo, even if these significant factual inconsistencies were resolved, there is insufficient medical evidence of record to establish that appellant was totally disabled for all work at any time. Dr. Diao, an attending Board-certified orthopedic surgeon, diagnosed work-related bilateral "repetitive stress injuries" of the upper extremities and opined in reports from October 15 to December 17, 1998 that appellant could not perform her keyboarding duties. However, he did not state that appellant was totally disabled from any and all work, including light-duty work. Also, Dr. Diao attributed findings in both upper extremities to work factors, whereas the Office only accepted tendinitis of the right wrist.

Similarly, Dr. Richardson, an attending Board-certified neurologist, diagnosed bilateral repetitive stress injuries of both upper extremities, finding appellant disabled for her data entry job in reports from January 20 to June 25, 1999. Again, the Office had accepted only right wrist tendinitis and he did not state specifically that appellant was totally disabled from all work due to that condition.

The Board finds that the weight of the medical evidence in this case rests with Dr. Blasier, a Board-certified orthopedic surgeon and impartial medical examiner. Based on a detailed review of the entire medical record and a thorough clinical examination and interview with appellant, he diagnosed resolved right wrist tendinitis and bilateral carpal tunnel syndrome.[7] Dr. Blasier explained that both the medical record and his examination of appellant revealed inconsistent objective findings and negative diagnostic studies, indicating a nonphysiologic pain response as opposed to an organic, objective condition. He found that the accepted right wrist tendinitis had resolved and that there was no indication either in the record or on examination that appellant was totally disabled for all work at any time due to the accepted condition.

Consequently, appellant has failed to establish any periods of total disability for work causally related to the accepted right wrist tendinitis, as she submitted insufficient rationalized medical evidence to establish such a relationship.[8]

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[6] *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

[7] Appellant has not claimed and the Office has not accepted carpal tunnel syndrome as an occupational condition in this case.

[8] Appellant submitted new medical evidence to the Office subsequent to the September 21, 1999 decision: progress notes from Dr. Richardson dated September 15, December 22 and November 30, 1999 and February 16, April 3 and May 15, 2000. The Board, however, cannot consider this evidence, since the Board's review of the case

The September 21, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
September 5, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Member

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is limited to the evidence of record which was before the Office at the time of its final decision; *see* 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence to the Office with a formal request for reconsideration; *see* 20 C.F.R. § 501.7(a).