

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JACQUELINE L. IRVING and U.S. POSTAL SERVICE,
POST OFFICE, Inglewood, CA

*Docket No. 03-1377; Submitted on the Record;
Issued September 3, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she developed a right shoulder condition or right carpal tunnel syndrome in the performance of duty.

On September 12, 2002 appellant, then a 45-year-old distribution clerk, filed an occupational disease claim alleging that a right shoulder condition and right carpal tunnel syndrome were caused by employment factors. She stated that she first became aware of her condition on August 8, 2000.¹ Appellant stopped work on February 15, 2002.

In an attached narrative statement, appellant summarized her employment history noting that: in 1978 she began work as a letter sorter machine operator which required repetitive keying of information; in 1986 she became a letter carrier which required her to carry mail weighing 70 pounds and perform repetitive tasks; and in 1993 she was assigned to casing mail 8 hours a day where she was required to reach forward and above shoulder level and lift mail trays weighing approximately 45 pounds.

Appellant submitted an August 16, 2000 report from Dr. Patricia Isely, Board-certified in emergency medicine, who noted treating appellant for neck, back and right wrist pain. She reported that on August 8, 2000 appellant experienced pains in her neck, upper back and right wrist while leaning over and lifting a tray of mail. By report dated November 20, 2000, Dr. Chirag N. Amin, a family practitioner, reported a similar history of injury. Upon physical examination, Tinel's and Phalen's signs were negative. Dr. Amin diagnosed an acute lumbosacral strain with myofascitis, acute cervical strain with myofascitis and cervical radiculopathy of the right upper extremity. He opined that, based on appellant's history, objective findings and the type of employment, her subjective complaints correlated well with

¹ The record reveals that appellant filed two other claims for injuries sustained on August 8, 2000: claim No. 13-2008402, which was accepted for low back and neck strain; and claim No. 13-2017303 filed on December 12, 2000 which was denied by the Office of Workers' Compensation Programs in decisions dated September 18 and May 2, 2001. These claims are not before the Board at this time.

the objective findings and history of the accident. A form progress report dated December 8, 2000 contained a diagnoses of lumbalgia, cervical radiculitis and cervical hypolondosis.²

In a letter dated December 3, 2002, the Office advised appellant of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence. The Office particularly requested that she submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

Appellant submitted a narrative statement in which she reported the carpal tunnel syndrome and a right shoulder condition that started on May 17, 2002 with stiffness and numbness in her shoulder and stiffness, numbness, tingling and burning of the right hand which she believed was caused by repetitive motion from casing mail, eight hours a day, five days a week, with constant reaching above the shoulder level and below the waist. She previously filed a claim for an August 8, 2000 injury for neck, back, shoulder, arm and hand conditions but that only the neck and back conditions were accepted by the Office. Appellant noted that she had continuous problems with pain in her right hand, arm and shoulder since that time and had been diagnosed with carpal tunnel syndrome on August 13, 2002. She indicated that she did not work from August 31 to October 23, 2000, December 15, 2001 to February 4, 2002 and February 15, 2002 forward. Appellant also submitted additional medical evidence, including an August 13, 2002 report, in which Dr. Ali Dini, a Board-certified orthopedist, noted her complaints of right shoulder pain and that she had failed to respond to conservative treatment. He noted the history of the August 8, 2000 injury and advised that appellant's right shoulder condition was caused by that injury. In a December 17, 2002 report, Dr. Dini indicated that appellant had been treated for numbness and pain in both hands and further advised that a nerve conduction study revealed right carpal tunnel syndrome and opined that her condition was caused by her employment.

An October 28, 2002 mylogram demonstrated lumbar spine disc disease and lumbar spine radiculopathy. In a December 18, 2002 report, Dr. Steven Sadler, a Board-certified anesthesiologist, noted appellant's complaints of pain in the neck, right shoulder, right wrist and right hand pain. He noted findings on examination and diagnosed appellant with right carpal tunnel syndrome, lumbar spine disc bulge, cervical spine disc bulge and right shoulder internal derangement.

In a February 4, 2003 decision the Office denied appellant's claim for compensation finding that the medical evidence was insufficient to establish that her medical condition was caused by employment factors.

The Board finds that appellant has not met her burden of proof in establishing that she developed right carpal tunnel syndrome or a right shoulder condition causally related to employment factors.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or his claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim

² The signature on the form report is illegible.

was timely filed within the applicable time limitation period of the Act, that the 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.³ 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.⁴

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 the claimant. The medical evidence required to establish causal relationship is generally 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.⁵

The Board finds that appellant has not submitted sufficient medical evidence to support that her claimed carpal tunnel syndrome of the right hand or right shoulder injury was causally related to the employment factors of her federal employment.

The medical evidence relevant to the right carpal tunnel syndrome, included a report dated August 16, 2000, in which Dr. Isely noted treating appellant for neck, back and right wrist pain. She reported appellant's history that, on August 8, 2000 she felt pains in her neck, upper back and right wrist, while leaning over and lifting a tray of mail. However, Dr. Isely did not address how specific employment factors described above may have caused or contributed to appellant's hand condition. She merely noted the specific tasks that appellant performed. Dr. Isely did not include a rationalized opinion regarding the causal relationship between appellant's condition and the factors of employment believed to have caused or contributed to such a condition.⁶ By report dated November 20, 2000, Dr. Amin diagnosed acute lumbosacral strain with myofascitis, acute cervical strain with myofascitis and cervical radiculopathy of the right upper extremity and opined that based on appellant's history, objective findings and the type of employment, her subjective complaints correlated well with the objective findings and

³ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

⁶ *See Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

history of the accident. However, he did not diagnose appellant with carpal tunnel syndrome of the right hand, rather he noted that appellant sustained an acute lumbosacral strain with myofascitis; acute cervical strain with myofascitis; and cervical radiculopathy of the right upper extremity. Dr. Amin's report neither noted a history of the right carpal tunnel syndrome condition,⁷ nor did he include a rationalized opinion regarding the causal relationship between appellant's conditions and the factors of employment alleged to have caused or contributed to such condition.⁸ Therefore, this report is insufficient to meet appellant's burden of proof.

The medical evidence relevant to the right shoulder condition included an August 13, 2002 report in which Dr. Dini noted appellant's complaints of right shoulder pain and that she had failed to respond to conservative treatment. He noted the history of the August 8, 2000 injury and advised that appellant's right shoulder condition was caused by that injury. In a December 17, 2002 report, Dr. Dini indicated that appellant had been treated for numbness and pain in both hands and further advised that a nerve conduction study revealed right carpal tunnel syndrome and opined that her condition was caused by her employment. Although his opinion somewhat supports causal relationship in a conclusory statement, he provided no medical reasoning or rationale to support such statement. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.⁹

Other records from Dr. Sadler, including a report dated December 18, 2002, noted appellant's complaints of pain in the neck, right shoulder, right wrist and right hand pain. He noted findings on examination and diagnosed appellant with right carpal tunnel syndrome, lumbar spine disc bulge, cervical spine disc bulge and right shoulder internal derangement. However, Dr. Sadler's report neither noted a history of the right carpal tunnel syndrome condition and right shoulder injury,¹⁰ nor did he include a rationalized opinion regarding the causal relationship between appellant's hand and shoulder conditions and the factors of employment believed to have caused or contributed to such condition.¹¹ Therefore, this report is insufficient to meet appellant's burden of proof.

The remainder of the medical evidence fails to provide an opinion on the causal relationship between this incident and appellant's diagnosed condition. For this reason, this evidence is insufficient to meet appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.¹² Causal relationships must be established by

⁷ See *Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

⁸ See *supra* note 7.

⁹ See *supra* note 7.

¹⁰ See *Cowan Mullins*, *supra* note 8.

¹¹ See *Theron J. Barham*, *supra*, note 7.

¹² See *Victor J. Woodhams*, *supra* note 5.

rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore, properly denied appellant's claim for compensation.¹³

The decision of the Office of Workers' Compensation Programs dated February 4, 2003 is affirmed.

Dated, Washington, DC
September 3, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

¹³ With her appeal appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from filing a claim that she sustained a recurrence of the August 8, 2000 injury and submitting new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a).