

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

THOMAS R. COLLINS, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Hazelwood, MO, Employer**

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**Docket No. 05-1695
Issued: November 17, 2005**

Appearance:
Thomas R. Collins, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
WILLIE T.C. THOMAS, Alternate Judge

JURISDICTION

On August 4, 2005 appellant filed a timely appeal from an Office of Workers' Compensation Programs' April 28, 2005 merit decision which denied his claim for an occupational disease. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue on appeal is whether appellant has met his burden of proof in establishing that he developed right carpal tunnel syndrome while in the performance of duty.

FACTUAL HISTORY

On December 9, 2003 appellant, then a 54-year-old mail handler, filed an occupational disease claim alleging that he developed right carpal tunnel syndrome while performing his work duties. He became aware of his condition on December 9, 2003. Appellant did not stop work.

By letter dated December 31, 2003, the Office advised appellant of the type of factual and medical evidence needed to establish his claim and requested that he submit such evidence,

particularly requesting that he submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

In support of his claim, appellant submitted an incomplete duty status report in which the employing establishment noted his work requirements. No physician signed or completed the physician's side of the form.

The employing establishment submitted a statement from Carl E. Jemerson, appellant's supervisor, dated January 7, 2004, who noted that appellant worked with his hands all day performing specific tasks including opening and separating bags filled with torn and loose mail, separating mail from hampers and tossing mail into sacks. He further noted that appellant worked on a portable conveyor belt where he separated torn and loose mail. The employing establishment attached a copy of appellant's job description.

In a decision dated February 24, 2004, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his condition was caused by his employment duties as required by the Federal Employees' Compensation Act.¹

By letter dated February 9, 2005, appellant requested reconsideration and submitted additional evidence. He submitted an electromyogram (EMG) and nerve conduction velocity test dated December 9, 2003, from Dr. Robert P. Margolis, a neurologist. The report noted findings suggestive of mild chronic right C7 radiculopathy and findings consistent with "right sensory greater than motor carpal tunnel syndrome."

In a decision dated April 28, 2005, the Office denied modification of the prior decision.

LEGAL PRECEDENT

An employee seeking benefits under the Act has the burden of establishing 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 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. 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.²

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) 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

¹ 5 U.S.C. §§ 8101-8193.

² *Gary J. Watling*, 52 ECAB 357 (2001).

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.³

ANALYSIS

It is not disputed that appellant's duties as a letter carrier included performing some repetitive activities using his hands and arms. However, he has not submitted sufficient medical evidence to support that a condition has been diagnosed in connection with the employment factor and that any alleged right carpal tunnel syndrome is causally related to the employment factors or conditions.

On December 31, 2003 the Office advised appellant of the type of medical evidence needed to establish his claim. He did not submit a medical report from an attending physician addressing how specific employment factors may have caused or aggravated his claimed condition. The only medical evidence submitted by appellant was the EMG and nerve conduction and velocity test dated December 9, 2003, from Dr. Margolis, which revealed findings suggestive for mild chronic right C7 radiculopathy and findings consistent with "right sensory greater than motor carpal tunnel syndrome." However, the report neither noted a history of the injury or the employment factors believed to have caused or contributed to his condition.⁴ Additionally, the report does not provide a rationalized opinion regarding the causal relationship between appellant's condition and the factors of employment believed to have caused or contributed to such condition.⁵ Therefore, this report is insufficient to meet his burden of proof.

The record contains no other medical evidence. Because appellant has not submitted reasoned medical evidence explaining how and why his right carpal tunnel syndrome is employment related, he has not met his 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.⁶ Causal relationships must be established by

³ *Solomon Polen*, 51 ECAB 341 (2000).

⁴ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

⁵ *See Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁶ *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office, therefore, properly denied his claim for compensation.⁷

CONCLUSION

The Board, therefore, finds that, as none of the medical reports provided an opinion that appellant developed an employment-related injury in the performance of duty, he failed to meet his burden of proof.⁸

ORDER

IT IS HEREBY ORDERED THAT the April 28, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 17, 2005
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

⁷ With his request for an appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).

⁸ *See Calvin E. King*, 51 ECAB 394 (2000).