

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

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D.D., Appellant	)	
	)	<b>Docket No. 08-869</b>
and	)	<b>Issued: August 13, 2008</b>
	)	
U.S. POSTAL SERVICE, POST OFFICE,	)	
Saginaw, MI, Employer	)	
	)	

<i>Appearances:</i> Alan J. Shapiro, Esq., for the appellant Office of Solicitor, for the Director	<i>Case Submitted on the Record</i>
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**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On February 4, 2008 appellant filed a timely appeal of the January 15, 2008 merit decision of the Office of Workers' Compensation Programs which denied his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the case.

**ISSUE**

The issue is whether appellant sustained an occupational disease in the performance of duty.

**FACTUAL HISTORY**

On April 5, 2007 appellant, then a 45-year-old mail handler, filed an occupational disease claim alleging that he sustained a tingling sensation in the fingers and palm of his right hand and a heavy feeling in his right and left arms due to working 84 hours in a week using both of his hands to open bundled flats.

Medical evidence was received in support of his claim. In an April 9, 2007 duty status report, Dr. M.J. Staines, an osteopath, stated that appellant felt numbness in the right arm, hand and fingers while working overtime, noted clinical findings of “tunnels” on the right side, and answered “yes” in the section marked diagnosis due to injury section. She also recommended that appellant avoid the AI prep station and wear a splint. In an April 5, 2007 occupational health services status report, Dr. Staines diagnosed arm pain and bilateral numbness “believed to be caused by the operation of business equipment.” She allowed appellant to return to work with the recommendation to avoid AI prep station work until cleared medically. In an April 9, 2007 report, Dr. Staines diagnosed bilateral upper extremity paresthesias and right hand pain. She restricted appellant to no twisting or turning and to wear splints.

In an April 24, 2007 letter, the Office requested additional medical information from appellant to support his claim. Additional information was submitted. In an April 13, 2007 report, Dr. Staines diagnosed bilateral upper extremity paresthesias and right hand pain. In an April 5, 2007 report, Dr. Huneycutt<sup>1</sup> diagnosed bilateral arm pain and numbness. An April 5, 2007 note diagnosed numbness in bilateral arms with worse in the right arm, because it felt like it was asleep. In an April 9, 2007 visit note, Dr. Staines diagnosed bilateral upper extremity paresthesias with right hand pain and advised limited use of twisting and torquing of the wrists. In a May 10, 2007 letter, she described appellant’s physical capabilities and symptoms and diagnosed bilateral upper extremity paresthesias with right hand pain. In an April 13, 2007 visit note, Dr. Staines described appellant’s physical examination.

Appellant submitted factual information also. He submitted a description of his work activities as a mail handler that require repetitive hand or arm motion including the AI prep station, AI dumping station, low cost tray sorter, sorting parcel post/periodical sacks, and loading/unloading semi trailers. In a February 27, 2007 letter, appellant described the history and progression of his condition from March 5 to April 24, 2007 providing specific dates and what he was doing at that time. He also described his activities outside of his employment.

On July 17, 2007 the Office denied appellant’s claim on the grounds that the medical evidence does not establish that the claimed medical condition was related to the established work-related events as there was no medical rationale explaining how the employment factors contributed to the claimed arm and hand conditions.

On July 25, 2007 appellant requested an oral telephone hearing. A hearing was held on November 14, 2007.

In a December 13, 2007 letter, Dr. Arno W. Weiss, Jr., Board-certified in plastic surgery, stated that based on what appellant told him about his job he was convinced that appellant’s job caused his carpal tunnel and was a direct result of appellant’s work exposure. He also stated that appellant was constantly doing “highly repetitive things” in 12-hour shifts and for extended workweeks.

In a January 15, 2008 decision, the Office denied appellant’s claim finding that the medical evidence was insufficient to establish that appellant’s condition was causally related to

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<sup>1</sup> The signature line is illegible therefore Dr. Huneycutt’s first name and specialty could not be verified.

the accepted work factors. It did accept that appellant performed repetitive work duties including grasping, pulling, pushing, reaching, and lifting and that he worked in excess of 40 hours per week as a mail handler beginning in February 2007.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of the Act and 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 or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup>

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 the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the 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 factors identified by the claimant.<sup>3</sup>

While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.<sup>4</sup>

### **ANALYSIS**

Appellant alleged that his bilateral hand and arm conditions are causally related to his federal employment due to the repetitive use of his hands and arms in the performance of duty. The Office accepted that appellant performed repetitive work duties including grasping, pulling, pushing, reaching and lifting. It also accepted that appellant worked in excess of 40 hours per week as a mail handler beginning in February 2007. The issue is whether the medical evidence is sufficient to establish that appellant's hand and arm conditions are causally related to his employment.

The medical evidence submitted is not sufficient to establish that appellant's conditions are related to his employment. In her reports, Dr. Staines diagnosed bilateral upper extremity paresthesia, with right hand pain and arm pain. The only diagnosis he provided was bilateral upper extremity paresthesias, as pain is a symptom of a medical condition and does not constitute

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<sup>2</sup> *Anthony P. Silva*, 55 ECAB 179 (2003).

<sup>3</sup> *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005).

<sup>4</sup> *Morris Scanlon*, 11 ECAB 384, 385 (1960).

a basis for payment of compensation.<sup>5</sup> Dr. Staines stated that she believed appellant's condition was caused by the operation of business equipment but she did not explain what type of equipment he used or how the use of such equipment could cause or contribute to appellant's diagnosed bilateral upper extremity paresthesias. Dr. Huneycutt diagnosed bilateral arm pain and numbness but did not opine as to the cause of these conditions. Dr. Weiss opined that appellant's job caused his carpal tunnel as a direct result of work exposure and that appellant was constantly doing "highly repetitive things" during his shifts. The description of "highly repetitive things" is not adequate to describe what exactly appellant was doing in his employment nor is it adequate to explain how such "highly repetitive things" caused the diagnosed carpal tunnel. Dr. Weiss' opinion does not contain the requisite medical rationale to support that appellant's carpal tunnel is causally related to his accepted employment factors. While both Dr. Weiss and Dr. Staines concluded that appellant's conditions were related to his employment a mere conclusion without medical rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet the claimant's burden of proof. The medical evidence must include rationale explaining how the physician reached the conclusion he or she is supporting.<sup>6</sup>

While appellant believes his bilateral arm and hand conditions are related to his employment the mere belief that the disease or condition was caused by employment factors is not sufficient enough to establish a causal relationship between the two.<sup>7</sup> The Board finds that appellant has submitted insufficient medical evidence to establish that he sustained a condition in the performance of duty.

### CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

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<sup>5</sup> *Robert Broome*, 55 ECAB 339 (2004), citing *John L. Clark*, 32 ECAB 1618 (1981).

<sup>6</sup> *Beverly A. Spencer*, 55 ECAB 501 (2004).

<sup>7</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 15, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 13, 2008  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board