

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

\_\_\_\_\_  
**T.J., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Philadelphia, PA, Employer**  
\_\_\_\_\_

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 07-1768  
Issued: January 8, 2008**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On June 20, 2007 appellant timely appealed a June 27, 2006 merit decision of the Office of Workers' Compensation Programs denying her occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this claim.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she developed an occupational disease in the performance of duty.

**FACTUAL HISTORY**

On September 16, 2005 appellant, then a 28-year-old mail processing clerk, filed an occupational disease claim alleging that her federal employment caused or aggravated her cervical radiculopathy and overuse syndrome. She stated that her condition began in March 2005 and that she first became aware of the condition and its relation to her work in May 2005. Appellant was placed in a light-duty assignment on September 16, 2005. She submitted an April 17, 2005 report from a hospital emergency room diagnosing carpal tunnel

syndrome, a December 5, 2001 partial fitness examination of the employing establishment and a printout of her leave balances.

By letter dated October 6, 2005, the Office advised appellant that the information submitted was insufficient to establish her claim. It requested additional factual and medical evidence.

In an undated statement, appellant described the work duties which she believed contributed to her condition. She was responsible for keying and lifting large and small parcels. Appellant stated that she keyed approximately six hours a day, five days a week. She was also required to lift, push and pull oversize parcels weighing up to 100 pounds from the conveyor belt for several hours on a daily basis. Appellant was responsible for working the mail sack section, which required her to do continuous bending, lifting and twisting in order to move mail sacks weighing from 40 to 75 pounds. Other duties included working the mail cull chutes, the "brylane" operation and the "doubleday" operation. Appellant advised that the brylane operation required her to constantly reach overhead and throw boxes containing books into the mail containers. She indicated that she performed this duty two to four hours per day and that such containers could weigh up to 1400 pounds.

Appellant submitted a May 19, 2005 duty status report from an unknown source, which diagnosed a cervical radiculopathy, and a September 17, 2005 accident report from the employing establishment. Dr. Paul H. Steinfield, a Board-certified orthopedic surgeon, reviewed on June 10, 2005 a history of injury and appellant's work duties. He stated that she developed tenderness in the supple range of motion of the cervical spine. Dr. Steinfield indicated that appellant had right hand pain caused by cervical radiculopathy and over use syndrome. He noted that appellant had similar problems two to three years earlier and underwent hand therapy on two occasions. On July 13, 2005 Dr. Steinfield noted that appellant had been placed on light duty. He indicated that appellant's right arm pain and right elbow pain was caused by cervical radiculopathy. A September 21, 2005 restriction form diagnosed a cervical radiculopathy.

In a July 21, 2005 medical report, Dr. Stanley Boos, a family practitioner, noted that appellant lifted 70 pounds or more and performed data entry. She complained of pain in her right and left wrists after typing and handling heavy mail on April 17, 2005. He reviewed appellant's medical history and objective tests. Dr. Boos noted that appellant underwent numerous medical examinations which were conclusive for cervical radiculopathy. He indicated that appellant's pain in both wrists and both forearms were the result of cervical radiculopathy and over use syndrome. Dr. Boos opined that those injuries were connected to her work duties of repetitive motion and heavy lifting. He advised that appellant should not perform any repetitive motion or heavy lifting to avoid further injury. A copy of an undated work restriction form report was also provided.

By decision dated November 7, 2005, the Office denied appellant's claim on the grounds that she failed to establish fact of injury. It found that the evidence was insufficient to establish that the work exposures occurred as alleged and the medical evidence did not demonstrate a medical condition related to the claimed activities.

On November 15, 2005 appellant requested an oral hearing. She submitted an April 19, 2005 return to work slip from Fred A. Stutman, a family practitioner, diagnosing carpal tunnel/tendinitis; work restriction forms from Dr. Steinfield dated June 10 and August 15, 2005, diagnosing cervical radiculopathy and carpal tunnel syndrome; an office note dated July 13, 2005; and a September 19, 2005 duty status report (Form CA-17) from Dr. Boos diagnosing cervical radiculopathy.

By decision dated December 27, 2005, an Office hearing representative vacated the November 7, 2005 decision, finding that the medical evidence from Dr. Boos and Dr. Steinfield was sufficient to support further medical development. The case was remanded to the Office for additional medical development.

On May 2, 2006 the Office referred appellant to Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon. In a May 31, 2006 report, he reviewed the medical evidence of file and noted that appellant returned to work for a brief period of time on light duty in the summer of 2005, but had not worked since then. A recent electromyogram (EMG) showed signs of a chronic C5-6 radiculopathy on the right side, with nothing on the left side. No carpal tunnel was noted. Dr. Hanley set forth his findings on examination and found that, while there was a history of ill defined discomfort of the right upper extremity with a positive EMG, there were no objective findings on examination. He advised that appellant had no signs of any significant pathology in her musculoskeletal system and that there were no signs of a residual of any industrial injury. Dr. Hanley noted that she had a recent epidural and that it was possible that she had some resolution of her symptomatology. He saw no reason for additional treatment after appellant completed her epidurals. Dr. Hanley stated that he did not find any signs of an overuse syndrome and, the fact that she had hardly worked during the prior year, would argue against an overuse syndrome, which typically became better with rest. In a May 31, 2006 work capacity evaluation, he opined that appellant reached maximum medical improvement and was capable of returning to her usual job.

By decision dated June 27, 2006, the Office denied appellant's claim on the basis that she did not establish an occupational disease causally related to the established work-related activities.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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 an injury was sustained in the performance of duty as alleged, and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are the

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

An occupational disease or injury is one caused by specified employment factors occurring over a longer period than a single shift or workday.<sup>4</sup> The test for determining whether appellant sustained a compensable occupational disease or injury is three-pronged. To establish the factual elements of the claim, appellant must submit: (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>5</sup>

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his or her claimed injury and his or her employment.<sup>6</sup> To establish a causal relationship, appellant must submit a physician's report, in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and his medical history, states whether the employment injury caused or aggravated appellant's diagnosed conditions and presents medical rationale in support of his or her opinion.<sup>7</sup>

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.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant<sup>9</sup> and must be one of reasonable medical certainty<sup>10</sup> explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>11</sup>

---

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *D.D.*, 57 ECAB \_\_\_ (Docket No. 06-1315, issued September 14, 2006).

<sup>5</sup> *Michael R. Shaffer*, 55 ECAB 386, 389 (2004), citing *Lourdes Harris*, 45 ECAB 545 (1994); *Victor J. Woodhams*, *supra* note 3.

<sup>6</sup> *Donald W. Long*, 41 ECAB 142 (1989).

<sup>7</sup> *Id.*

<sup>8</sup> *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>9</sup> *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>10</sup> *John W. Montoya*, 54 ECAB 306 (2003).

<sup>11</sup> *Judy C. Rogers*, 54 ECAB 693 (2003).

## ANALYSIS

Appellant alleged that she sustained cervical radiculopathy and an over use syndrome as a result of her employment duties. The evidence establishes that appellant's work duties involved repetitive tasks such as keying and lifting mail parcels. However, appellant submitted insufficient medical evidence to establish that she sustained cervical radiculopathy or an over use condition caused or aggravated by specific employment factors.

In a June 10, 2005 report, Dr. Steinfield reviewed appellant's medical history and work duties. He stated that as a result of such duties, she developed tenderness with a supple range of motion of the cervical spine. Dr. Steinfield diagnosed right hand pain caused by cervical radiculopathy and over use syndrome. On July 13, 2005 he noted that appellant had been placed on light duty and reiterated that her right arm and right elbow pain were caused by a cervical radiculopathy. Dr. Steinfield attributed appellant's condition to her employment based on appellant's stated medical history. However, he did not provide adequate explanation to support his opinion that her condition was caused by her work duties. Dr. Steinfield did not explain why the particular work duties would cause or aggravate a cervical condition or contribute to her right upper extremity pain. The Board has held that a medical opinion not fortified by medical rationale is of diminished probative value.<sup>12</sup> Moreover, the mere fact that appellant's symptoms arose in her employment, without more, is not probative. The Board has held that the concurrence of symptom development within a period of employment is insufficient to establish causal relationship.<sup>13</sup>

On July 21, 2005 Dr. Boos noted appellant's work duties and stated that her previous medical examinations and objective tests were conclusive for cervical radiculopathy. However, he presented insufficient rationale explaining how her specific work activities caused or aggravated her diagnosed condition. Dr. Boos indicated that the pain in both wrists and forearms were the result of cervical radiculopathy and an over use syndrome and opined that such conditions were connected to her work duties of repetitive motion and heavy lifting. However, he did not provide an adequate explanation concerning how appellant's work duties contributed to any preexisting condition impacting her right upper extremity.<sup>14</sup>

Other reports submitted by appellant, including those from Dr. Steinfield, Dr. Boos' and Dr. Stutman, are insufficient to establish the claim as they do not specifically address whether appellant's employment factors caused or aggravated a diagnosed condition.<sup>15</sup>

The Office referred appellant to Dr. Hanley for a second opinion examination. In a May 31, 2006 report, Dr. Hanley addressed her medical history and his findings on examination. He noted a history of ill defined discomfort of the right upper extremity with a positive EMG.

---

<sup>12</sup> *Brenda L. Dubuque*, 55 ECAB 212, 217 (2004).

<sup>13</sup> *Robert M. Sanford*, 27 ECAB 115 (1975).

<sup>14</sup> *Brenda L. Dubuque*, *supra* note 12.

<sup>15</sup> *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

However, there were no objective findings on examination or signs of a residual disability attributable to an industrial injury. He noted that it was possible that appellant's recent epidural had resolved some of her symptomatology. Dr. Hanley stated that he did not see any signs of an over use syndrome. He explained that such a condition typically became better with rest and noted that appellant had not worked much during the prior last year. Dr. Hanley found no basis on which to attribute appellant's condition to her employment.

There is no other reasoned medical evidence addressing how appellant's employment duties caused or aggravated a right arm condition. Appellant has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof in establishing that she developed an occupational disease in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated June 27, 2006 is affirmed.

Issued: January 8, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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