United States Department of Labor
Employees' Compensation Appeals Board

L.L., Appellant	)	
and	)	**Docket No. 08-352**
	)	**Issued: May 14, 2008**
U.S. POSTAL SERVICE, POST OFFICE, Fishers, IN, Employer	)	

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 November 14, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' October 30, 2007 merit decision denying her claim for periods of employment-related disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained total disability from March 12 to 28, 2007 and April 10 to May 4, 2007 due to her accepted employment injury.

FACTUAL HISTORY

In May 2007 the Office accepted that appellant, then a 37-year-old mail carrier, sustained an aggravation of left wrist tendinitis due to casing and delivering mail.[1] She stopped work on March 12, 2007 and stayed off work through the end of March 2007. On March 31, 2007 the employing establishment made limited-duty work available to appellant which limited use of her left arm. Appellant stopped work again on April 10, 2007 and did not return until May 5, 2007.

Appellant submitted March 27, 2007 reports in which Dr. Jared W. Jones, an attending Board-certified internist, diagnosed left lateral epicondylitis and left carpal tunnel syndrome and indicated that she could return to work on March 28, 2007. Dr. Jones indicated that appellant could not work without a brace and that she should only engage in "limited, nonpainful use" of her left arm for four weeks.[2] He indicated that although appellant had exquisite tenderness over the left lateral epicondyle she had excellent grip strength in the left hand.[3]

On April 25, 2007 Dr. Jones diagnosed left lateral epicondylitis and left carpal tunnel syndrome and stated, "I would like to obtain an EMG [electromyogram] as well to determine whether there is truly carpal tunnel entrapment of the median nerve and, if so, the extent of the injury to the median nerve. We will keep her off work until I see her back in follow-up after the EMG has been completed."[4]

Appellant claimed that she sustained total disability from March 12 to 28, 2007 and April 10 to May 4, 2007 due to her accepted employment injury, aggravation of left wrist tendinitis.

In an April 11, 2007 report, added to the record in July 2007, Dr. Christine Kirkendol, an attending Board-certified internist, stated that she saw appellant on March 13, 2007 when she

[1] Appellant first became aware of this condition on March 12, 2007 and first became aware of its relation to her employment on March 27, 2007. The record contains a March 30, 2007 memorandum in which she indicated that she was off work on March 12, 2007 to care for her sick son. Appellant stated that she knew that she had a left arm condition at that time but did not realize that it was employment related.

[2] In late March 2007, Dr. Jones provided work restrictions which were in accordance with the limited-duty work provided by the employing establishment on March 31, 2007. He indicated that appellant could return to her regular duty in late April 2007. In an undated form report, Dr. Jones stated that appellant's left carpal tunnel syndrome was due to a "March 13, 2007" employment injury.

[3] Appellant also submitted notes and reports in which Lisa Owens, an attending nurse practitioner, indicated that she could not work for various dates between mid March and late April 2007.

[4] Dr. Jones indicated that appellant complained of discomfort with Tinel's test over the carpal tunnel. In an April 25, 2007 note, he diagnosed left elbow pain and stated that appellant could return to work on May 7, 2007. Dr. Jones indicated that he would obtain an EMG of the left arm to determine if surgical treatment was required.

complained of pain in her elbow, forearm and wrist which started a few weeks prior.[5] Dr. Kirkendol stated:

> "[Appellant] explained her current job duties and undoubtedly this type of work could create and exacerbate the problem. I diagnosed her with tend[i]nitis and treated her with steroids, ice exercise and an arm band. I also advised [appellant] that work would aggravate this condition and prolong the healing. [Appellant] returned on March 26[, 2007] without improvement. At that time, I referred [appellant] to an orthopedic specialist. She saw him on March 28[, 2007] and according to her, he recommended light-duty, physical therapy and continuation of appropriate medications. [I] also advised her that she has carpal tunnel syndrome.
>
> "As of April 10, 2007, [appellant] is still wearing the arm band, doing physical therapy and taking medications. The light duties at work are still too aggravating for her condition. I do not foresee that she will improve at all unless we give her complete rest from repetitive work. Therefore, I [ha]ve recommended no work for one month."

In an October 30, 2007 decision, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained disability from March 12 to 28, 2007 and April 10 to May 4, 2007 due to her accepted employment injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[6] has the burden of establishing the essential elements of 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 disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[7] The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable 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.[8]

---

[5] The text of this report appears to have been taken from a report prepared by Ms. Owens on April 11, 2007 and it is unclear whether Dr. Kirkendol actually saw appellant on March 13, 2007.

[6] 5 U.S.C. §§ 8101-8193.

[7] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[8] *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

ANALYSIS

The Office accepted that appellant sustained aggravation of left wrist tendinitis due to casing and delivering mail.[9] She stopped work on March 12, 2007 and stayed off work through March 28, 2007. On March 31, 2007 the employing establishment made limited-duty work available to appellant which limited use of her left arm. Appellant stopped work again on April 10, 2007 and did not return until May 5, 2007. She claimed she sustained total disability from March 12 to 28, 2007 and April 10 to May 4, 2007 due to her accepted employment injury.

The Board finds that appellant did not submit sufficient medical evidence to establish that she sustained disability from March 12 to 28, 2007 and April 10 to May 4, 2007 due to her accepted employment injury

On April 11, 2007 Dr. Kirkendol, an attending Board-certified internist, stated that she saw appellant on March 13, 2007 when she complained of pain in her elbow, forearm and wrist which started a few weeks prior. She diagnosed tendinitis and referred appellant to an orthopedic specialist who placed her on light-duty work. Dr. Kirkendol also indicated that appellant had been diagnosed with carpal tunnel syndrome. When she saw appellant on April 10, 2007, the light-duty work was "still too aggravating for her condition." Dr. Kirkendol noted, "I do not foresee that she will improve at all unless we give her complete rest from repetitive work. Therefore, I [ha]ve recommended no work for one month."

This report, however, is of limited probative value on the issue of disability in that Dr. Kirkendol did not provide a clear, rationalized opinion that appellant sustained total disability during the claimed periods due to her accepted employment condition, aggravation of left wrist tendinitis.[10] She noted that appellant had been diagnosed with carpal tunnel syndrome as well as tendinitis but she did not adequately explain why appellant was disabled for the month beginning April 10, 2007 due to the accepted employment injury, aggravation of left wrist tendinitis. The Board notes that it has not been accepted that appellant sustained employment-related left carpal tunnel syndrome.[11] Dr. Kirkendol provided no findings on examination or diagnostic testing regarding the state of appellant's left wrist condition nor did she provide an extensive medical history. She did not explain the medical process through which appellant's employment-related left wrist condition worsened to the point that she could no longer work. Dr. Kirkendol indicated that appellant's light-duty work was "still too aggravating" for her left arm condition but she did not provide any description whatsoever of this work. The Board notes that the limited-duty work performed by appellant was designed to limit the use of her left arm.

[9] Appellant indicated that she first became aware of this condition on March 12, 2007 and first became aware of its relation to her employment on March 27, 2007. The record contains a March 30, 2007 memorandum in which appellant indicated that she was off work on March 12, 2007 to care for her sick son. She stated that she knew that she had a left arm condition at that time but did not realize that it was employment related.

[10] *See Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

[11] Moreover, there is no clear medical evidence, such as the results of appropriate diagnostic testing, to show that appellant has such a condition.

In an April 25, 2007 report, Dr. Jones, an attending Board-certified internist, diagnosed left lateral epicondylitis and left carpal tunnel syndrome and stated that he would like to obtain EMG testing to determine if appellant actually had carpal tunnel syndrome. He noted, "We will keep her off work until I see her back in follow-up after the EMG has been completed." In an April 25, 2007 note, Dr. Jones diagnosed left elbow pain and stated that appellant could return to work on May 7, 2007. He indicated that he would obtain an EMG of the left arm to determine if surgical treatment was required. Although Dr. Jones recommended a brief period of disability, he provided no indication that it was due to the accepted employment injury, aggravation of left wrist tendinitis. It has not been accepted that appellant sustained employment-related left lateral epicondylitis or left carpal tunnel syndrome.[12]

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained disability from March 12 to 28, 2007 and April 10 to May 4, 2007 due to her accepted employment injury.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' October 30, 2007 decision is affirmed.

Issued: May 14, 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

[12] Appellant also submitted notes and reports in which Ms. Owens, an attending nurse practitioner, indicated that she could not work for various dates between mid March and late April 2007. However, a nurse is not a "physician" within the definitions under the Act and thus cannot render a medical opinion. *See Bertha L. Arnold*, 38 ECAB 282, 285 (1986); 5 U.S.C. § 8101(2).