

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

T.P., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
West Sacramento, CA, Employer**

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**Docket Nos. 07-1993; 08-829
Issued: October 14, 2008**

Appearances:

Jimmy K. Prshewlozky, for the appellant

No appearance, for the Director

Oral Argument May 14, 2008

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

COLLEEN DUFFY KIKO, Judge

MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 26, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' October 24, 2007 merit decision denying her claim for employment-related arm conditions other than those already accepted by the Office. The appeal was docketed as 07-1993. On January 22, 2008 appellant filed a timely appeal from the Office's November 27, 2007 merit decision denying her claim for an employment-related heart condition

and recurrence of disability. The appeal was docketed as 08-829. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.¹

ISSUES

The issues are: (1) whether appellant met her burden of proof to establish that she sustained an employment-related arm, wrist or hand condition other than those already accepted by the Office; (2) whether appellant met her burden of proof to establish that she sustained a recurrence of disability due to her accepted arm and hand conditions; (3) whether appellant met her burden of proof to establish that she sustained a heart condition in the performance of duty; and (4) whether appellant met her burden of proof to establish that she sustained a recurrence of disability due to an accepted heart condition.

FACTUAL HISTORY

On December 19, 2002 appellant, then a 58-year-old postal clerk, filed an occupational disease claim alleging that her right hand condition was still deteriorating.² She first became aware of her condition on July 31, 2000 and of its relation to her employment on October 19, 2002. Appellant did not stop work at the time she filed her claim, but continued working in a light-duty position. She last worked for the employing establishment in April 2003.

In an accompanying statement, appellant indicated that the date of her injury was February 2, 1998 when a steel cage door fell on the back of her right hand.³ She asserted that she sustained four more right arm injuries between early 1998 and late 2002. Appellant claimed that she sustained injury on or around March 8, 1999 due to unloading, lifting and carrying trays of mail weighing up to 50 pounds for several days (known as breaking down mail), on July 25, 1999 due to breaking down mail, on July 31, 2000 due to sweeping heavy mail trays off tray carriers and placing them into cages,⁴ and on or about October 19, 2002 when she realized her right hand condition had deteriorated and she had to use her right hand as a stick to perform

¹ At the oral argument, appellant asserted that the employing establishment retaliated against her for filing claims. She also took issue with the manner in which the Office handled her claim. However, the Board does not have jurisdiction to address these matters as the record does not contain any final decisions of the Office concerning these matters which were issued in the year prior to appellant's filing of the present appeal on March 20, 2007.

² Appellant stated, "I use my right hand as a stick sometimes in conjunction with left hand which does all work." The claim was given file number 13-2070171.

³ In a February 20, 2003 statement, appellant asserted that all her right hand injuries were focused on the area of the radial nerve where she was struck by the steel cage door on February 2, 1998.

⁴ Appellant asserted that one 50-pound tray fell into her hands as she pulled it out from under a ledge and that she felt a tearing sensation in the back of her right hand. She indicated that after she dropped the tray she saw a rectangular lump on the back of her hand without blood or bruising.

her work.⁵ She also suggested that she had work-related heart problems. Appellant indicated that in June 2002 she had a fever of 102.5 degrees for three days and that laboratory testing from July 2002 showed that she had heart problems.⁶

In a February 27, 2003 work status report, Dr. Stephen L. Mandaro, an attending Board-certified occupational medicine physician, listed February 2, 1998 as the date of injury and diagnosed right hand contusion.⁷ On March 4, 2003 Dr. Mandaro completed another form report and listed the date of injury as October 19, 2002 and the mechanism of injury as “tray fell on hand.” He diagnosed right hand contusion due to the October 19, 2002 injury.

In a March 26, 2003 decision, the Office denied appellant’s occupational disease claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained an employment-related right arm condition other than those already accepted by the Office. It found that the medical evidence was not based on a complete and accurate factual and medical history. The Office discussed the accepted March 8, 1999 and July 31, 2000 employment conditions but noted that these conditions had resolved.⁸

In a February 27, 2003 report, Dr. Mandaro stated that he first saw her on that date and that she reported sustaining four right hand injuries, the first on February 2, 1998 when a cage door fell on her hand and the last in October 1992. He indicated that appellant held her right hand in a claw fashion, exhibited normal results on sensory examination and had good range of motion except upon extension. Dr. Mandaro diagnosed right hand contusion and paresthesias.

In an April 3, 2003 report, Dr. Rosalind A. Hsia, an attending Board-certified neurologist, stated that appellant might have a heart condition and that she should not be placed in physically or mentally stressful situations. On April 8, 2003 she stated that appellant had work-related “post-traumatic reflex sympathetic dystrophy (complex regional pain syndrome).” A January 31, 2003 treadmill test was positive for ischemia but it was noted that motion artifact made

⁵ The Office had previously accepted that in about March 1999 appellant sustained right arm tendinitis (file number 13-1184162) and that on July 31, 2000 she sustained aggravation of preexisting osteoarthritis of her right hand (file number 13-2016911). In an April 10, 2001 decision, it determined that appellant did not have residuals of her July 31, 2000 injury after August 9, 2000. The Office based its termination on the opinion of Dr. Michael Bugola, an attending Board-certified occupational medicine physician, who released appellant to work, with respect to this condition, effective August 9, 2000. In a November 21, 2002 decision, it found that appellant did not have residuals of her accepted right arm tendinitis condition after November 20, 2002. The Office based its termination on a May 14, 2002 report of Dr. Jerrold M. Sherman, a Board-certified orthopedic surgeon who served as an Office referral physician. Dr. Sherman indicated that appellant had normal examination findings and no longer had work-related right arm tendinitis. In a May 3, 2005 decision, the Office determined that appellant did not show clear evidence of error in its November 21, 2002 decision.

⁶ In other statements, appellant asserted that she also sustained work-related “viral infections” on December 27, 1999 and on four occasions in 2000 which affected her heart condition.

⁷ On January 26, 2004 Dr. Mandaro again listed February 2, 1998 as the date of injury and diagnosed right hand contusion and on March 1, 2004 he stated that appellant had neuropathy of the right hand as a result of multiple unspecified injuries.

⁸ The Office indicated that it had no prior claim for a February 2, 1998 or July 25, 1999 injury.

interpretation of the test difficult. The findings of an April 18, 2003 computerized tomography (CT) scan of appellant's heart showed no signs of coronary atherosclerotic plaque.

On May 14, 2003 Dr. Hsia stated that appellant reported having more trouble with her right hand and was getting the same sensory symptoms in her left hand. She noted, "[Appellant's] exam[ination] was not able to be done due to time constraints caused by going over her functional status forms" and diagnosed complex regional pain syndrome of the hands and arms, probable cervical radiculopathy and lumbar spondylosis with asymptomatic S1 radiculopathy. On July 14, 2003 Dr. Hsia stated that appellant sustained injury when her right hand was struck by a metal cage door. She advised that appellant's history of symptoms following the injury was consistent with the diagnosis of complex regional pain syndrome (reflex sympathetic dystrophy) affecting the right hand and arm and concluded that "the blow to her right arm and hand is directly, and without doubt, the cause of this chronic pain syndrome and her disability." Dr. Hsia stated that appellant had mirror symptoms involving her left arm and hand and that this condition was also employment related.

On October 8, 2003 Dr. Hsia stated that appellant was first injured on February 2, 1998 when the back of her right hand was struck by a metal cage door. This injury was aggravated on July 31, 2000 when she experienced a tearing sensation and weakness in her right hand at the site of her original injury after a mail tray weighing about 50 pounds fell on her hands. Dr. Hsia stated:

"Her symptoms were consistent with a diagnosis of complex regional pain syndrome/reflex sympathetic dystrophy affecting her right hand and arm. The force of the tray falling into her right hand is directly, and without doubt, the cause of this chronic pain syndrome at the site of the injury and her disability. Her disability was increased by her second aggravating injury at the same site on her right hand, and her ability to grasp with her right hand substantially diminished. Her left hand has certain symptoms which mirror some of those of the right hand, but to a far lesser extent. These mirror symptoms occur very commonly and therefore should also be considered directly caused by her industrial injury. Because the direct physical injury was to her right hand, this hand is significantly more impaired than the left."⁹

On October 21, 2003 Dr. Asish Ghoshal, an attending Board-certified neurologist, stated that appellant sustained an injury in February 1998 when a metal door struck her right hand and that she sustained another injury on July 31, 2000 when a mail tray weighing approximately 50 pounds fell on her hands. Dr. Ghoshal reported normal findings upon examination and stated

⁹ Appellant submitted the findings of December 2001 magnetic resonance imaging (MRI) scan testing of the right wrist which showed normal results. Bone scan testing from January 2002 showed no abnormalities of her right hand and wrist which would explain her complaints. The findings of December 2003 MRI scan testing revealed small cysts at the first and second metacarpal joints of the right hand, likely representative of osteoarthritis and mild joint fluid in the second to fourth metacarpal phalangeal joints suggestive of possible rheumatoid arthritis. The findings of November 2003 electromyogram (EMG) testing showed normal latencies in the right median, ulnar and radial nerves.

that despite appellant's subjective complaints he did not see any evidence of neurologic impairment.

In a December 15, 2003 decision, an Office hearing representative affirmed the March 26, 2003 decision. She noted that some medical evidence referred to a February 2, 1998 injury, but indicated that there was no record that appellant filed a claim for a February 2, 1998 injury and determined that this claimed injury was not accepted as having occurred. The hearing representative stated that it was accepted that appellant lifted mail trays weighing up to 50 pounds but found that appellant did not submit sufficient medical evidence to show that she sustained an additional injury due to these duties. She indicated that appellant made vague allegations of a heart condition which she attributed to fevers, but determined that she had not explained how this claimed condition was employment related or submitted medical evidence which related it to specific employment factors.

On January 22, 2004 appellant filed an occupational claim (Form CA-2) alleging that she sustained injury as a result of her federal employment. The claim form indicated that appellant had a right hand crush injury in 1998 and now had a floating tendon. Appellant also noted that her left hand was getting weaker.

By decision dated March 23, 2004, the Office denied appellant's claim for compensation. It found that appellant had not established an injury causally related to her federal employment other than those already accepted.

On March 3, 2004 Dr. John W. Ellis, an attending Board-certified family practitioner, diagnosed cystic structure on the dorsal aspect of the wrist, tendinitis/tenosynovitis of the right wrist and "injury/impingement/irritation" of the radial nerve. He indicated that these conditions were causally related to the "above-described accident" at work and recommended work restrictions.¹⁰ On May 5, 2004 Dr. Ellis noted that appellant reported that she sustained right hand injuries on February 2, 1998 and July 31, 2000 as well as on January 19, 2002 when she used her left arm to remove heavy mail from a hamper. He diagnosed strains of the left thoracic paraspinal musculature and the left forearm and indicated that these conditions were directly related to appellant's employment due to the fact that she overused her left arm. Dr. Ellis stated that appellant reported that she had to rely on her left arm because of right arm injuries and indicated that her overuse of her left arm was "causing the patient's current complaints." He stated, "It is my opinion the patient's left upper back and left upper extremity complaints are directly and causally related to the patient's job duties and employment with [the employing establishment]."

On August 5, 2004 Dr. Ellis stated that appellant reported that on February 2, 1998 a steel cage door fell on the back of her right hand and that on July 31, 2000 a 50-pound tray fell into her hands causing her to feel a tearing sensation in the same area of the right hand. He diagnosed a crush injury of the right hand resulting in nodule/cystic structure over the dorsal aspect of the wrist, tendinitis/tenosynovitis of the right wrist, and irritation/impingement of the radial nerve of

¹⁰ Dr. Ellis noted that appellant reported sustaining right hand injuries on February 2, 1998 and July 31, 2000. On April 15, 2004 he provided a similar opinion on appellant's ability to work.

the right hand and concluded that these conditions were due to appellant's February 2, 1998 and July 31, 2000 employment injuries.¹¹

In a February 28, 2005 decision, the Office affirmed its December 15, 2003 decision. It determined that appellant's claim that she sustained an injury on February 2, 1998 was barred by the three-year time limitations of the Act. It noted that appellant first mentioned the February 2, 1998 injury in an April 2001 document submitted in connection with a claimed March 1999 injury (file number 13-1184162). The Office had previously been accepted under file number 13-1184162 that appellant sustained right hand tendinitis in March 1999 but compensation for this condition was terminated effective November 3, 2002. It advised that it did not have a record of a claim for a July 25, 1999 injury but found that this claimed injury was considered to be part of the claim handled under file number 13-1184162. The Office stated that it was accepted that on July 31, 2000 appellant sustained an aggravation of preexisting osteoarthritis of her right hand, but that it was determined in a separate claim (file number 13-2016911) that this condition had ceased by August 9, 2000. It stated that appellant was required to sort or break down mail at least through January 2003, a task which required lifting and handling mail trays weighing up to 50 pounds. The Office indicated that appellant's left arm complaints were being handled under another claim (file number 13-2097387) and that the only issue that remained was whether appellant was entitled to compensation for any injury after November 20, 2002 which was caused by her regular duties of breaking down mail. It determined that appellant had not submitted sufficient medical evidence to establish such entitlement to compensation.

Appellant contended that she also sustained injury to her left arm because she overused that arm due to the work-related injuries to her right arm. In a March 2, 2005 decision, the Office affirmed its March 24, 2004 decision. The Office found that appellant did not establish that she sustained a work-related injury to her left arm.¹² In a July 3, 2006 decision,¹³ the Board affirmed the Office's March 2, 2005 decision.

In a November 4, 2005 decision, the Office denied appellant's claim that she sustained an employment-related injury on or about October 19, 2002. It indicated that appellant did not clearly identify the work factors she believed caused injury on or about October 19, 2002. In an August 4, 2006 decision, an Office hearing representative affirmed the Office's November 4, 2005 decision.

On July 10, 2006 appellant filed an occupational disease claim (Form CA-2) alleging that she sustained a heart condition due to employment factors. She claimed that an attending physician advised her that she sustained a heart ischemia due to fevers which in turn were caused

¹¹ Appellant also submitted reports dated between March and September 1999 in which Dr. Michael Bugola, an attending Board-certified occupational medicine physician, indicated that she had right wrist tendinitis. By early August 2000, Dr. Bugola no longer diagnosed appellant with right wrist or arm tendinitis and he released her to work, with respect to this condition, effective August 9, 2000. On March 28, 2001 Dr. Bugola diagnosed chronic right hand pain of uncertain etiology with secondary left shoulder girdle strain.

¹² The Office's March 24, 2004 decision focused on appellant's claims regarding her left arm, but its March 2, 2005 decision focused on her claims regarding her left arm.

¹³ Docket No. 06-863 (issued July 3, 2006).

by her federal employment. Appellant indicated that she first realized that her heart condition was related to employment factors on June 21, 2006.

In an August 26, 2006 statement, appellant asserted that she sustained work-related fevers which caused her to sustain a heart condition. She contended that her heart condition was caused or aggravated by a dog bite on her right calf which occurred at work on August 8, 1998¹⁴ and/or an incident on February 22, 2000 when a supervisor, Bernadette Viernes, grabbed both her hands.

On September 26, 2005 appellant again claimed that she sustained injury on February 2, 1998 when a steel cage door fell on the back of her right hand. In a September 29, 2006 decision, the Office again determined that her claim for a February 2, 1998 right hand injury was untimely.

On November 9, 2006 appellant filed a claim for recurrence of disability (Form CA-2a) due to an employment-related heart condition. She alleged that the recurrence of disability occurred on October 26, 2006 and constituted a continuation of her heart ischemia condition which was diagnosed on January 31, 2003.

In a November 14, 2006 decision, the Office denied appellant's claim for a recurrence of disability due to an employment-related heart condition. In support of this determination, the Office stated, "As you know, your case has been denied. A denied claim cannot recur. Therefore, no further action will be taken concerning your claim for recurrence."

In a March 28, 2007 decision,¹⁵ the Board set aside the Office's February 28, 2005 decision and remanded the case to the Office for further development to include proper assemblage of the case record. The Board found that the case record was missing documents relevant to appellant's claim that she sustained an employment-related right arm condition or period of disability other than those already accepted by the Office.

In an October 4, 2007 decision,¹⁶ the Board set aside the Office's November 14, 2006 decision and remanded the case to the Office for further development. The Board determined that the Office did not issue a decision containing adequate findings of fact and reasoning to explain its finding that appellant had not established a recurrence of disability due to an employment-related heart condition.

In an October 24, 2007 decision, the Office found that appellant did not meet her burden of proof to establish that she sustained an employment-related right arm condition or period of

¹⁴ It appears that the Office accepted that appellant sustained a dog bite on her left calf on August 8, 1998.

¹⁵ Docket No. 06-1344 (issued March 28, 2007).

¹⁶ Docket No. 07-1135 (issued October 4, 2007).

disability other than those already accepted by the Office which it also found that appellant did not sustain a work-related injury to her left arm.¹⁷

In a November 27, 2007 decision, the Office found that appellant did not meet her burden of proof to establish that she sustained a recurrence of disability due to an accepted right arm condition. It determined that appellant had not established that she sustained a heart condition due to the claimed employment factors. The Office also found that she had not shown that she sustained a recurrence of disability due to an employment-related heart condition.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under the Federal Employees' Compensation Act¹⁸ 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.¹⁹

To establish that an injury was sustained in the performance of duty in a traumatic injury or 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 diagnosed condition is causally related to the employment factors identified by the claimant.²⁰

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.²¹

¹⁷ In a May 31, 2007 decision, the Office found that appellant did not meet her burden of proof to establish that she sustained an employment-related right arm condition or period of disability other than those already accepted by the Office. However, in an October 9, 2007 order remanding case, the Board set aside the Office's May 31, 2007 decision and remanded the case to the Office for addition of documents to the record concerning this matter. On remand, the Office added numerous relevant documents to the case record.

¹⁸ 5 U.S.C. §§ 8101-8193.

¹⁹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

²⁰ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

²¹ *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

ANALYSIS -- ISSUE 1

Appellant alleged that she sustained various employment-related injuries to both arms, wrists and hands, although most of her claims have centered on her right upper extremity. She attributed these injuries to the performance of her duties over a period of time and to specific employment incidents.²² The Board will consider whether appellant has sustained an occupational disease or traumatic injury due to employment factors other than those already accepted.²³

The Office accepted that in about March 1999 appellant sustained right arm tendinitis (file number 13-1184162). In a November 21, 2002 decision, it found that appellant did not have residuals of her accepted right arm tendinitis condition after November 20, 2002.²⁴ In a May 3, 2005 decision, the Office determined that appellant did not show clear evidence of error in its November 21, 2002 decision.²⁵ It also accepted that on July 31, 2000 appellant sustained aggravation of preexisting osteoarthritis of her right hand (file number 13-2016911). In an April 10, 2001 decision, the Office determined that appellant did not have residuals of her July 31, 2000 injury after August 9, 2000.²⁶

In a February 27, 2003 work status report, Dr. Mandaro, an attending Board-certified occupational medicine physician, listed February 2, 1998 as the date of injury and diagnosed right hand contusion.²⁷ This report is of limited probative value because Dr. Mandaro did not provide a complete and accurate medical history or explain how appellant could have sustained such an injury.²⁸ The Board notes that in a February 28, 2005 decision, the Office determined that appellant's prior claim that she sustained an injury on February 2, 1998 was barred by the

²² The Office has accepted that appellant was required to sort or break down mail at least through January 2003, a task which required lifting and handling mail trays weighing up to 50 pounds.

²³ A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. § 10.5(ee), (q); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

²⁴ The Office based its termination on a May 14, 2002 report of Dr. Sherman, a Board-certified orthopedic surgeon who served as an Office referral physician. Dr. Sherman indicated that appellant had normal examination findings and no longer had work-related right arm tendinitis.

²⁵ There is no rationalized medical evidence in the record indicating that appellant continued to have residuals of the accepted right arm tendinitis after November 20, 2002. The record does not contain an Office decision concerning this matter within the jurisdiction of the Board.

²⁶ The Office based its termination on the opinion of Dr. Bugola, an attending Board-certified occupational medicine physician, who released appellant to work, with respect to this condition, effective August 9, 2000. There is no rationalized medical evidence in the record indicating that appellant continued to have residuals of the accepted July 31, 2000 injury after August 9, 2000. The record does not contain an Office decision concerning this matter within the jurisdiction of the Board.

²⁷ Appellant had alleged that a steel cage door fell on the back of her hand on February 2, 1998.

²⁸ In a January 26, 2004 report, Dr. Mandaro listed February 2, 1998 as the date of injury and diagnosed right hand contusion. This report is also deficient due to its lack of medical rationale.

three-year time limitations of the Act.²⁹ In a September 29, 2006 decision, the Office again determined that her claim for a February 2, 1998 right hand injury was untimely.³⁰

On March 4, 2003 Dr. Mandaro completed another form report and listed the date of injury as October 19, 2002 and the mechanism of injury as “tray fell on hand.” He diagnosed right hand contusion due to the October 19, 2002 injury. However, this report is of limited probative value because there is no indication in the record that a tray fell on appellant’s right hand on October 19, 2002.

In several reports dated between May and October 2003, Dr. Hsia, an attending Board-certified neurologist, indicated that appellant had complex regional pain syndrome of both hands and arms. She seemed to attribute this condition to either a cage door falling on appellant’s right hand on February 2, 1998 or a heavy tray falling into her hands on July 31, 2000. Dr. Hsia did not provide medical rationale explaining how appellant sustained a work-related complex regional pain syndrome of both hands and arms. As noted it was accepted that on July 31, 2000 appellant sustained aggravation of preexisting osteoarthritis of her right hand which resolved by August 9, 2000. Dr. Hsia did not explain how appellant sustained complex regional pain syndrome on July 31, 2000 which continued to cause residual symptoms in 2003. She stated that appellant had “mirror symptoms” involving her left arm and hand and that this condition was also employment related. However, Dr. Hsia also did not explain how these left-sided symptoms were caused by employment factors.

In a March 3, 2004 report, Dr. Ellis, an attending Board-certified family practitioner, diagnosed cystic structure on the dorsal aspect of the wrist, tendinitis/tenosynovitis of the right wrist and “injury/impingement/irritation” of the radial nerve. He indicated that these conditions were causally related to either a February 2, 1998 or July 31, 2000 incident, but he did not provide any explanation or medical rationale in support of this opinion.³¹ As noted above, the residuals of the July 31, 2000 injury resolved by August 9, 2002. On May 5, 2004 Dr. Ellis diagnosed strains of the left thoracic paraspinal musculature and the left forearm and indicated that these conditions were directly related to appellant’s employment due to the fact that she overused her left arm. This report is of limited probative value because Dr. Ellis did not describe appellant’s employment duties in any detail or explain how they could have caused such injury.

Appellant has not submitted sufficient rationalized medical evidence to show that she sustained an employment-related condition of her arms, wrist or hands other than those already accepted. For these reasons, the Office properly denied appellant’s claims for these conditions.

²⁹ The Office indicated that appellant first mentioned the February 2, 1998 injury in an April 2001 document submitted in connection with a claimed March 1999 injury. There is no medical evidence in the record from around February 1998 indicating that appellant sustained such an injury on February 2, 1998.

³⁰ The record does not contain an Office decision concerning this matter within the jurisdiction of the Board.

³¹ Dr. Ellis provided a similar opinion in an August 5, 2004 report but this report is defective for similar reasons.

LEGAL PRECEDENT -- ISSUE 2

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.³² This burden includes the necessity of furnishing rationalized medical evidence relating the claimed recurrence of disability to the accepted employment injury.³³ Where no such rationale is present, medical evidence is of diminished probative value.³⁴

ANALYSIS -- ISSUE 2

The Office accepted that in approximately March 1999 appellant sustained right arm tendinitis, but it has been determined that appellant did not have residuals of this condition after November 20, 2002. It also accepted that on July 31, 2000 appellant sustained aggravation of preexisting osteoarthritis of her right hand, but it has been found that appellant did not have residuals of this condition after August 9, 2000.

Appellant claimed that she sustained a recurrence of disability due to her accepted employment injuries, but she did not submit sufficient rationalized medical evidence to establish this claim. As noted, Dr. Hsia suggested in several reports dated between May and October 2003 that appellant had complex regional pain syndrome of both hands and arms which was at least partially related to the July 31, 2000 employment injury. In March 3 and August 5, 2004 reports, Dr. Ellis indicated that appellant's right wrist and arm problems were partially related to the July 31, 2000 employment injury. However, neither physician provided a rationalized opinion addressing how appellant's disability was due to the July 31, 2000 employment injury.³⁵

For these reasons, appellant did not meet her burden of proof to establish that she sustained a recurrence of disability due to her accepted arm and hand conditions.

LEGAL PRECEDENT -- ISSUE 3

An employee seeking benefits under the Act has the burden of establishing 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. To establish that an injury was sustained in the performance of duty in a traumatic or occupational disease

³² *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

³³ *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

³⁴ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

³⁵ Dr. Ellis also diagnosed tendinitis/tenosynovitis of the right wrist but did not provide an opinion that this represented a recurrence of disability due to the tendinitis condition accepted in early 1999. No physician provided a clear opinion that appellant sustained a recurrence of disability due to this condition.

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 diagnosed condition is causally related to the employment factors identified by the claimant.³⁶

ANALYSIS -- ISSUE 3

In connection with her December 12, 2002 claim, appellant suggested that she had work-related heart problems. She indicated that in June 2002 she had a fever of 102.5 degrees for three days and that laboratory testing from July 2002 showed that she had heart problems.³⁷ In a December 15, 2003 decision, an Office hearing representative indicated that appellant made vague allegations of a heart condition which she attributed to fevers, but determined that she had not explained how this claimed condition was employment related or submitted medical evidence which related it to specific employment factors. In August 2006, appellant again asserted that she sustained work-related fevers which caused her to sustain a heart condition. She indicated that her heart condition was caused or aggravated by a dog bite on her right calf which occurred at work on August 8, 1998³⁸ and/or an incident on February 22, 2000 when a supervisor grabbed both her hands. In a November 27, 2007 decision, the Office found that appellant had not established that she sustained an employment-related heart condition.³⁹

The Board finds that the Office properly determined that appellant did not establish employment factors with respect to fevers as she did not adequately describe which employment duties or conditions caused these fevers. The Office appears to have acknowledged that appellant was bit by a dog at work on August 8, 1998 and that a supervisor grabbed her arm in February 2000, but appellant has not submitted medical evidence relating these or other employment factors to her claimed heart condition.

In an April 3, 2003 report, Dr. Hsia stated that appellant might have a heart condition and indicated that she should not be placed in physically or mentally stressful situations. A January 31, 2003 treadmill test was positive for ischemia but it was noted that motion artifact made interpretation of the test difficult.⁴⁰ These medical reports do not indicate that appellant had a heart condition due to employment factors. For these reasons, the Office properly denied appellant's claim for a work-related heart condition.

³⁶ See *supra* notes 19 and 20 and accompanying text.

³⁷ In other statements, appellant asserted that she also sustained work-related "viral infections" on December 27, 1999 and on four occasions in 2000 which affected her heart condition.

³⁸ It appears that the Office accepted that appellant sustained a dog bite on her left calf on August 8, 1998.

³⁹ The Office also found, therefore, that appellant had not shown that she sustained a recurrence of disability due to an employment-related heart condition.

⁴⁰ The findings of an April 18, 2003 CT scan of appellant's heart showed no signs of coronary atherosclerotic plaque.

LEGAL PRECEDENT -- ISSUE 4

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.⁴¹

ANALYSIS -- ISSUE 4

Appellant alleged that she sustained a recurrence of disability due to a work-related heart condition. For the reasons noted appellant did not meet her burden of proof to establish that she sustained a work-related heart condition based on probative medical opinion evidence. Given that she has not established such a work-related condition, there is no basis to find that she sustained a recurrence of disability due to a work-related heart condition.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an employment-related arm, wrist or hand condition other than those already accepted by the Office. The Board further finds that appellant did not meet her burden of proof to establish that she sustained a recurrence of disability due to her accepted arm and hand conditions. Appellant did not meet her burden of proof to establish that she sustained a heart condition in the performance of duty or a recurrence of disability due to a work-related heart condition.

⁴¹ See *supra* notes 32 through 34 and accompanying text.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' November 27 and October 24, 2007 decisions are affirmed.

Issued: October 14, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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