

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

J.K., Appellant)

and)

DEPARTMENT OF TRANSPORTATION,)
FEDERAL AVIATION ADMINISTRATION,)
College Park, GA, Employer)

Docket No. 09-1766
Issued: March 12, 2010

Appearances:

Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 29, 2009 appellant, through his representative, filed a timely appeal from the May 22, 2009 merit decision of the Office of Workers' Compensation Programs, which affirmed the denial of his consequential injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

ISSUE

The issue is whether appellant has established a causal relationship between his claimed medical conditions and his June 30, 1999 employment injury.

FACTUAL HISTORY

On June 30, 1999 appellant, then a 49-year-old civil engineering technician, sustained an injury in the performance of duty when he lifted a roll of fabric and hurt his back. The Office accepted his claim for lumbosacral strain and aggravation of degeneration of the lumbosacral

intervertebral disc at L4-5. Appellant received compensation for temporary total disability on the periodic rolls.¹

On September 30, 2008 appellant wrote the Office to advise that in addition to his constant back pain he experienced bilateral shoulder and wrist pain, radiating more to the left wrist, from having to support himself when sitting and getting up and down. He requested that his case be expanded to include these medical conditions. On October 6, 2008 the Office advised that it was appellant's burden to submit medical evidence, including a physician's rationalized opinion on the causal relationship, if any, between his work injury and the conditions for which he was now being treated.

On October 9, 2008 Dr. Mohammad Mendhi, appellant's family practitioner, reported that appellant presented on September 3, 2008 with pain in the left forearm and wrist more than the right. "When he had severe pain in the back, he would use the left arm to push himself to get up from lying to sitting position, and sitting to standing position, using the handle of the chairs. This is secondary to his chronic back pain, which has exacerbated from time to time in the recent months." Examination revealed some soft tissue swelling on the dorsum of the left wrist, with tenderness over the radial carpal joint area on the dorsum of the joint. Movements were limited and painful in all directions. Dr. Mendhi diagnosed, among other things, wrist and shoulder pain. He addressed the causal connection to appellant's accepted low back injury:

"The relationship between his pain in the left wrist and forearm is directly related to the patient's low back pain, that he cannot mobilize himself, and for him to propel himself in standing, sitting up from lying down and sitting position, he has to use his left arm, as well as the right, and he has been using a lot of muscle strength on the left side; hence, the pain as described above."

In a decision dated November 20, 2008, the Office denied appellant's consequential injury claim. It noted that pain was not a firm diagnosis and Dr. Mendhi did not provide a clear diagnosis of appellant's left wrist.

At a telephonic hearing on March 18, 2009, Dr. Thomas F. Hardin, appellant's osteopath, testified as to the progression and degenerative process of appellant's injuries, his weight, and his inability to ambulate or get out of a chair or sit down or sit up or walk any distance or ride any distance in an automobile. Appellant had to use both his arms, hands, wrists and shoulders to get himself out of a chair or put himself down in a sitting position. As a result his bilateral carpal tunnel and rotator cuff injuries became progressively worse. Dr. Hardin stated that appellant also developed fibromyalgia as a result. He stated that, as appellant grew older, scar tissue built up and progressed "into this thing" where he could not lift himself. Appellant did not have strength in his shoulders or wrists because at his age those things were nonoperable. The chance of his recovering from rotator cuff or carpal tunnel surgery was very questionable, probably less than 50 percent successful. Appellant's representative explained that what was needed was a report from the physician explaining how appellant's current condition flowed from the previous injury. Dr. Hardin stated that he would "write that up." No additional medical evidence was submitted to the record.

¹ The record indicates appellant had a previous work injury on April 19, 1999. OWCP File No. xxxxxx300.

In a decision dated May 22, 2009, an Office hearing representative affirmed the denial of appellant's consequential injury claim. The hearing representative noted that medical evidence consistent with the Office's requests was not provided.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.² A claimant seeking benefits under the Act has the burden of proof to establish the essential elements of his claim by the weight of the evidence,³ including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.⁴

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury, and must explain from a medical perspective how the current condition is related to the injury.⁵ Medical conclusions unsupported by rationale are of little probative value.⁶

It is an accepted principle of workers' compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent, intervening cause attributable to the employee's own intentional conduct.⁷

ANALYSIS

Appellant bears the burden of proof to establish that his bilateral wrist and shoulder conditions are causally related to his June 30, 1999 back injury. Dr. Mendhi, a family physician, attributed appellant's left wrist and forearm pain directly to his low back pain because he had to use his arms and a lot of muscle strength on the left side to assist himself in standing and sitting. He offered no specific medical diagnosis. Dr. Mendhi identified no particular medical condition -- sprain, strain, tendinitis, neuropathy, arthritis -- that would account for appellant's complaint of wrist and shoulder pain. He noted that appellant's chronic back pain had exacerbated from time to time in recent months, but did not explain why. Dr. Mendhi offered no medical

² 5 U.S.C. § 8102(a).

³ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

⁶ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

⁷ *John R. Knox*, 42 ECAB 193 (1990); *Lee A. Holle*, 7 ECAB 448 (1955).

explanation of how the use of appellant's arms to assist in standing or sitting caused or contributed to a particular medical diagnosis. The Board finds that Dr. Mendhi's opinion is of diminished probative value on the issue of causal relation.

At the March 18, 2008 hearing, Dr. Hardin, the attending osteopath, noted that appellant had bilateral carpal tunnel and bilateral rotator cuff injuries. He also mentioned fibromyalgia. Dr. Hardin did not specify the nature of appellant's rotator cuff injury, whether it was a tear or tendinopathy or arthritis. He did not refer to any diagnostic studies performed of the shoulders or wrists or explain from a medical perspective how the use of the upper extremities caused a carpal tunnel or rotator cuff injury. The Board finds that Dr. Hardin's opinion is also of diminished probative value. Dr. Hardin noted that he would provide a report explaining how appellant's carpal tunnel and rotator cuff conditions flowed from the accepted employment injury, but he submitted no report prior to the Office's May 22, 2009 decision.

Appellant did not provide medical evidence describing the nature of any wrist or shoulder injury. The evidence of record does not include clinical findings or diagnostic testing establishing a diagnosis. There is insufficient evidence from Drs. Mendhi and Hardin addressing a medical or biomechanical perspective, how the diagnosis is a result of the June 30, 1999 low back injury. It is not enough to report that the back injury caused appellant to use his arms, which in turn caused a wrist or shoulder condition. The physician must medically explain how the use of his arms caused a specific wrist or shoulder condition. In the absence of such medical opinion evidence, the Board will affirm the Office's May 22, 2009 decision affirming the denial of appellant's claim.

CONCLUSION

The Board finds that appellant has not met his burden to establish a causal relationship between his June 30, 1999 employment injury and his claimed medical conditions.

ORDER

IT IS HEREBY ORDERED THAT the May 22, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 12, 2010
Washington, DC

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

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

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