United States Department of Labor
Employees' Compensation Appeals Board

T.M., Appellant	)	
and	)	**Docket No. 10-1584**
	)	**Issued: February 23, 2011**
U.S. POSTAL SERVICE, POST OFFICE, Santa Maria, CA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 24, 2010 appellant filed a timely appeal from a January 21, 2010 merit decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

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

FACTUAL HISTORY

On December 4, 2009 appellant, then a 53-year-old letter carrier, filed an occupational disease claim alleging that she sustained left hand crepitus and instability as a result of continuously gripping mail between her thumb and fingers for six hours each workday. She was first aware of her condition in February 2008 and realized its relationship to her employment in August 2008. Appellant stated that, after her left thumb started hurting in February 2008, she

briefly wore a drug store brace before consulting her physician who referred her to a specialist. She did not stop work.

In a November 9, 2009 report, Dr. Michael J. Behrman, a Board-certified orthopedic surgeon, noted that appellant complained of significant left thumb pain. Appellant carried and cased mail for the employing establishment for 16 years and this activity involved repetitive pinching, squeezing and lifting. Dr. Behrman examined her and reported a positive left carpometacarpal grind test. He opined that appellant had left thumb degeneration, crepitus and instability that were due to her described work duties.

On December 21, 2009 the Office informed appellant that the evidence submitted was insufficient and advised her about the evidence needed to establish her claim. It allowed her 30 days to submit any medical reports describing symptoms, results of examinations and tests, diagnosis and treatment provided and offering a physician's reasoned opinion as to how her work activity incident caused her condition.

By decision dated January 21, 2010, the Office denied appellant's claim, finding that the medical evidence was insufficient to establish that employment-related factors caused or aggravated a left thumb condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.[2] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[3]

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.[4] To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or

[1] 5 U.S.C. §§ 8101-8193.

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

[3] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[4] *See S.P.*, 59 ECAB 184, 188 (2007).

condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.[5]

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background, 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.[6]

ANALYSIS

The evidence supports that appellant carried and cased mail for the employing establishment for 16 years. She submitted a report from Dr. Behrman supporting that she has a left thumb or hand condition. However, appellant has not provided sufficient medical evidence to demonstrate that her work activities caused a left thumb or hand condition.

Dr. Behrman's November 9, 2009 reports concluded after a positive left carpometacarpal grind test that she sustained left thumb degeneration, crepitus and instability. He opined, based on the work history obtained, that her condition resulted from 16 years of pinching, squeezing and lifting mail. The Board notes that Dr. Behrman did not provide any reasoning to explain the pathophysiological process by which these repetitive actions would cause or contribute to appellant's left thumb condition. Dr. Behrman did not explain why repetitive squeezing, pinching or lifting of mail would cause or aggravate a diagnosed condition. A medical opinion not fortified by medical rationale is of little probative value.[7] Dr. Behrman provided only a one-paragraph report that did not detail any history of appellant's condition and listed minimal findings on physical examination. Other than noting a positive grind test, he did not provide a firm medical diagnosis of appellant's left thumb condition.[8] On December 21, 2009 the Office informed her that the medical evidence was insufficient and gave her an opportunity to submit additional medical reports. However, the record shows that no new evidence was received before issuance of the January 21, 2010 merit decision.

Appellant argues on appeal that Dr. Behrman's opinion supports causal relationship. As noted, Dr. Behrman did not sufficiently explain the reasons why her job duties caused or contributed to her left thumb or hand condition. Appellant also submitted a new report from

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[5] *See R.R.*, 60 ECAB ___ n.12 (Docket No. 08-2010, issued April 3, 2009); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005).

[6] *I.J.*, 59 ECAB 408, 415 (2008); *Woodhams*, *supra* note 3 at 352.

[7] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954).

[8] *See Deborah L. Beatty*, 54 ECAB 340 (2003); *Willie M. Miller*, 53 ECAB 697 (2002).

Dr. Behrman. However, the Board may not consider new evidence on appeal as its review is limited to the evidence that was in the record at the time the Office issued its final decision.[9]

CONCLUSION

The Board finds that appellant did not establish that she sustained an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the January 21, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 23, 2011
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

[9] 20 C.F.R. § 501.2(c)(1).