

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

M.C., Appellant

and

**U.S. POSTAL SERVICE, MILTON POST
OFFICE, Milton, VT, Employer**

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**Docket No. 10-1962
Issued: June 17, 2011**

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 July 27, 2010 appellant filed a timely appeal of the June 30, 2010 merit decision of the Office of Workers' Compensation Programs denying her occupational disease claim. Pursuant to the Federal Employees' Compensation Act¹ and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant sustained bilateral carpal tunnel syndrome causally related to factors of her federal employment.

On appeal, appellant contends that her claimed bilateral wrist condition was caused by her repetitive work duties.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On May 13, 2010 appellant, then a 58-year-old rural letter carrier, filed an occupational disease claim alleging that on January 20, 2007 she first realized that her carpal tunnel syndrome was caused by her federal employment. She experienced a burning sensation, weakness and numbness in both hands. Appellant performed repetitive motions with her fingers on a continuous basis for three years.

Appellant submitted an April 15, 2010 progress note from Dr. Thomas J. Zweber, a Board-certified physiatrist, who provided the results of an electromyogram nerve conduction study (EMG/NCS). Dr. Zweber advised that the EMG/NCS was abnormal. Dr. Zweber found moderate-to-severe bilateral carpal tunnel syndrome. There was a mild slowing at the left ulnar nerve and mild motor and sensory abnormalities of the left wrist. There was also mild-to-borderline slowing of the right ulnar nerve at the elbow.

In an April 15, 2010 progress note, Troy Turner, a physician's assistant, reviewed the EMG/NCS results which showed moderate-to-severe bilateral carpal tunnel with ulnar nerve entrapment at Guyon's canal on the left. He advised that appellant had mild cubital tunnel on the right. Appellant received injections for her carpal tunnel syndrome from Dr. Forester² who recommended a carpal tunnel release. Mr. Turner noted that appellant had been refinishing hardwood floors and that her symptoms had worsened since her last visit.

In letters dated May 25, 2010, the employing establishment controverted appellant's claim, contending that the evidence of record did not establish that her claimed bilateral carpal tunnel syndrome was causally related to her federal employment.

By letter dated May 27, 2010, the Office advised appellant that the evidence submitted was insufficient to establish her claim. It requested that she submit additional factual and medical evidence in support. Also, on May 27, 2010 the Office requested that the employing establishment submit evidence regarding appellant's work duties.

By letter dated June 3, 2010, the employing establishment submitted a description of appellant's rural carrier position. An undated note from Stacy Gragoire, an officer-in-charge at the employing establishment, stated that appellant advised her that she quilted by hand for years which involved fine manipulation. Appellant also used a machine to refinish wood floors in her house.

In a June 3, 2010 letter, appellant provided a description of her work duties. She held mail for three hours. Appellant engaged in repetitive rapid use of her finger while sorting and withdrawing mail into and from a case, packing, lifting and putting mail into vehicles, delivering mail for four hours and opening mailboxes for 24 years. At the end of the workday, she experienced a great deal of pain in her hands, fingers and wrists. Appellant also described her activities outside work which included making quilts in the winter and gardening in the summer. In one week, she used a machine to refinish her hardwood floors. Appellant contended that she did not develop carpal tunnel syndrome in one week. She experienced pain prior to refinishing

² The Board notes that Dr. Forester's professional qualifications are not contained in the case record.

her floors. Appellant described her medical history regarding a broken wrist she sustained 20 years ago and diagnosis of arthritis.

In a June 21, 2010 letter, appellant reiterated that her claimed bilateral wrist condition developed prior to refinishing her wood floors. She sewed quilts. A professional made the quilts by hand.

In a June 30, 2010 decision, the Office accepted the employment factors appellant deemed responsible for her condition, but denied the claim because the medical evidence of record did not establish that her employment factors caused the diagnosed bilateral carpal tunnel syndrome.³

LEGAL PRECEDENT

An employee seeking benefits under the Act⁴ 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.⁵ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To establish that an injury was sustained in the performance of duty in an 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 employment 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 employment factors identified by the claimant. The medical evidence required to establish a causal relationship 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. 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

³ Following the issuance of the Office’s June 30, 2010 decision, it received additional evidence. The Board may not consider evidence for the first time on appeal which was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c)(1). Appellant may submit this new evidence with a formal, written request for reconsideration to the Office. 5 U.S.C. § 8128; 20 C.F.R. § 10.606.

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

identified by the claimant.⁷ Neither the fact that appellant's condition became apparent during a period of employment nor her belief that, the condition was caused by her employment is sufficient to establish a causal relationship.⁸

ANALYSIS

The Office accepted that appellant performed the work duties of a rural letter carrier as alleged. The Board finds that the medical evidence submitted is insufficient to establish that her diagnosed bilateral carpal tunnel syndrome was caused or aggravated by her work-related duties.

Dr. Zweber's April 15, 2010 progress note advised that appellant had moderate-to-severe bilateral carpal tunnel syndrome, mild slowing at the left ulnar nerve and motor and sensory abnormalities of the left wrist and mild-to-borderline slowing of the right ulnar nerve at the elbow based on EMG/NCS results. He failed to address whether the diagnosed conditions were causally related to the established work-related duties. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.⁹ The Board finds that Dr. Zweber's report is insufficient to establish appellant's claim.

The April 15, 2010 progress note of Mr. Turner, a physician's assistant, is of no probative medical value in establishing appellant's claim. A physician's assistant is not considered to be a physician as defined under the Act.¹⁰ The Board finds, therefore, that Mr. Turner's progress note does not constitute competent medical evidence to support appellant's claim.

The Board finds there is insufficient rationalized medical evidence to establish that appellant sustained bilateral carpal tunnel syndrome causally related to the accepted factors of her federal employment as a rural letter carrier. Appellant did not meet her burden of proof. Her contention on appeal that the evidence is sufficient to establish that she sustained an employment-related bilateral wrist condition is not supported by the evidence of record.

Appellant may submit new evidence or argument with a written request for reconsideration to the Office within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has failed to establish that she sustained bilateral carpal tunnel syndrome causally related to factors of her federal employment.

⁷ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

⁹ *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁰ *See Roy L. Humphrey*, 57 ECAB 238, 242 (2005); 5 U.S.C. § 8102(2).

ORDER

IT IS HEREBY ORDERED THAT the June 30, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 17, 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