

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

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**T.C., Appellant**

**and**

**DEPARTMENT OF THE AIR FORCE, HILL  
AIR FORCE BASE, UT, Employer**

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**Docket No. 12-1894  
Issued: February 19, 2013**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
PATRICIA HOWARD FITZGERALD, Judge

**JURISDICTION**

On September 13, 2012 appellant filed a timely appeal of a May 21, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 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 his burden of proof to establish that he sustained an occupational disease while in the performance of duty.

**FACTUAL HISTORY**

On January 4, 2012 appellant, then a 47-year-old aircraft electrician, filed an occupational disease claim alleging that he sustained thoracic outlet syndrome while operating wire braiding machinery. He became aware of his condition on September 1, 2011 and its

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

relationship to his employment on October 27, 2011. OWCP informed appellant in a January 11, 2012 letter that additional evidence was needed to establish his claim. It gave him 30 days to submit a report from a qualified physician explaining how work factors caused or contributed to a diagnosed injury.

In an October 27, 2011 report, Dr. Douglas C. Fuller, an employing establishment physician Board-certified in occupational medicine, related that appellant experienced left upper extremity numbness and paresthesia for approximately two months as a result of pulling wire harnesses and bundling Kevlar sleeves repetitively at work. On examination, he observed diminished left arm sensation to tactile stimulation. Dr. Fuller diagnosed thoracic outlet syndrome.<sup>2</sup> In a November 29, 2011 report, he remarked, “[Appellant’s] symptoms of numbness and tingling may be aggravated by his work, but the thoracic outlet syndrome is not work related.”

December 17, 2011 cervical spine x-rays obtained by Dr. Keith W. Hunsaker, a Board-certified diagnostic radiologist, exhibited C5-C6 spondylosis while December 28, 2011 left shoulder x-rays obtained by Dr. Matthew T. Warren, a Board-certified diagnostic radiologist, showed mild left acromioclavicular joint degeneration.<sup>3</sup>

By decision dated May 21, 2012, OWCP denied appellant’s claim, finding the medical evidence insufficient to establish that the accepted employment activity caused or contributed to a diagnosed condition.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period, 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.<sup>4</sup> 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.<sup>5</sup>

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.<sup>6</sup> 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

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<sup>2</sup> Subsequent records from Dr. Fuller for the period November 14, 2011 to January 10, 2012 essentially restated the content of his earliest report.

<sup>3</sup> Appellant also provided work status forms for the period October 27, 2011 to January 10, 2012.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *See S.P.*, 59 ECAB 184, 188 (2007).

disease or condition; (2) medical evidence establishing the presence or existence of the disease or 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.<sup>7</sup>

Rationalized medical opinion evidence is generally required to establish causal relationship. 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.<sup>8</sup>

### ANALYSIS

The case record supports that appellant operated wire braiding machinery at work, which entailed pulling wire harnesses and bundling Kevlar sleeves. In addition, Dr. Fuller diagnosed thoracic outlet syndrome following a physical examination. The Board finds, however, that appellant failed to establish his occupational disease claim because the medical evidence did not sufficiently prove that the accepted employment activity caused or contributed to the diagnosed condition.

Dr. Fuller opined in reports from October 27, 2011 to January 10, 2012 that appellant sustained thoracic outlet syndrome due to his job. He further specified in a November 29, 2011 report that appellant's work aggravated the condition.<sup>9</sup> However, Dr. Fuller did not pathophysiologically explain how pulling wire harnesses and bundling Kevlar sleeves led to an injury.<sup>10</sup> The need for rationalized medical opinion evidence is particularly important in this case because he indicated that thoracic outlet syndrome was a preexisting condition.

The remaining evidence, including Dr. Hunsaker's December 17, 2011 cervical spine x-rays, Dr. Warren's December 28, 2011 left shoulder x-rays and various work status notes, offered limited probative value on the issue of causal relationship because none of these records addressed whether appellant's federal employment caused or contributed to a diagnosed condition.<sup>11</sup> In the absence of rationalized medical opinion evidence, appellant failed to meet his burden of proof.

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

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<sup>7</sup> See *R.R.*, Docket No. 08-2010 (issued April 3, 2009); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005).

<sup>8</sup> *I.J.*, 59 ECAB 408 (2008); *Woodhams*, *supra* note 5.

<sup>9</sup> See *Arnold Gustafson*, 41 ECAB 131 (1989) (a preexisting condition that becomes disabling because of an aggravation directly attributable to work is compensable regardless of the degree of such aggravation).

<sup>10</sup> *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

<sup>11</sup> *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

**CONCLUSION**

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 21, 2012 merit decision of the Office of Workers' Compensation Programs be affirmed.

Issued: February 19, 2013  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board