

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

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| S.R., Appellant                   | ) |                            |
|                                   | ) |                            |
| and                               | ) | Docket No. 13-1166         |
|                                   | ) | Issued: September 10, 2013 |
| U.S. POSTAL SERVICE, POST OFFICE, | ) |                            |
| New Fenton, MI, Employer          | ) |                            |
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*Appearances:* *Case Submitted on the Record*  
Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director

**DECISION AND ORDER**

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

**JURISDICTION**

On April 15, 2013 appellant, through her attorney, filed a timely appeal of the March 15, 2013 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 has met her burden of proof to establish that she developed an occupational disease in the performance of duty.

**FACTUAL HISTORY**

This is the second appeal in the present case. In a decision dated November 28, 2012, the Board affirmed a December 15, 2011 decision finding that appellant had not met her burden of proof to establish that her claimed de Quervain's tenosynovitis or intersection syndrome was causally related to employment factors. The facts and circumstances of the case up to that point are set forth in the Board's prior decision and incorporated herein by reference.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> Docket No. 12-484 (issued November 28, 2012).

Pertinent prior medical evidence includes an October 27, 2009 magnetic resonance imaging (MRI) scan of the right wrist, which revealed no evidence of scapholunate disassociation or rotator instability and the triangular fibrocartilage complex was normal with a ganglion cyst. In a January 25, 2011 report, Dr. Emmanuel N. Obianwu, a Board-certified orthopedic surgeon and second opinion physician, examined appellant, noting a fully pronated distal forearm and pressure on the intersection point produced no symptoms. He diagnosed normal right hand and wrist. Dr. Obianwu advised that the circumference of each wrist was six and a half inches. He stated that the clinical examination did not reveal any evidence of de Quervain's tenosynovitis or intersection syndrome. Dr. Obianwu noted that the October 27, 2009 MRI scan of the right wrist revealed no evidence of scapholunate ligament disruption, scapholunate disassociation or rotator instability and the triangular fibrocartilage complex was normal. He stated that this study substantiated the lack of findings noted on examination. Dr. Obianwu advised that appellant could return to her regular duties as a rural carrier without restrictions and did not require ongoing treatment.

On December 27, 2012 appellant requested reconsideration. She submitted a February 14, 2012 report from Dr. Kathleen L. Kudray, an osteopath, who noted that appellant sustained an injury on October 15, 2009 and was diagnosed with de Quervain's tenosynovitis. Dr. Kudray noted reviewing Dr. Obianwu's report and disagreed with his findings. She disagreed with appellant's wrist circumference as measured by Dr. Obianwu stating that the right wrist was 6¼ inches and the left wrist was 6-5/8 inches when measured by her on February 10, 2011. Dr. Kudray also disagreed with Dr. Obianwu's finding that there was no reproducible pain with digital pressure. She indicated that there was no mention of grip strength which was greatly decreased with significant muscle atrophy noted on the right side as compared to the left. Dr. Kudray noted that appellant was last seen by Dr. George Dass in November 2009 who evaluated her and diagnosed de Quervain's tenosynovitis and recommended surgery. She indicated that, because appellant's condition was not accepted by OWCP as work related, her atrophy has significantly worsened. Dr. Kudray recommended evaluation by Dr. Dass, physical therapy and rehabilitation and opined that appellant could not return to her previous job or any job unless this requirement was met.

In a decision dated March 15, 2013, OWCP denied modification of the prior decision dated December 15, 2011.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. Appellant must also establish that such event, incident or exposure caused an injury.<sup>3</sup>

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<sup>3</sup> See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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) 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 claimant. The medical evidence required to establish causal relationship is generally 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 identified by the claimant.<sup>4</sup>

### ANALYSIS

OWCP accepted that appellant's duties as a letter carrier included performing repetitive duties including sorting mail, lifting and carrying mail bundles and walking. Appellant has been diagnosed with de Quervain's disease and intersection syndrome. The Board finds that she has not submitted sufficient medical evidence to establish that her diagnosed de Quervain's disease and intersection syndrome was causally related to her work duties.

A February 14, 2012 report from Dr. Kudray noted appellant's medical history and indicated that she disagreed with Dr. Obianwu's findings with regard to wrist circumference, which were 6¼ inches for the right wrist and 6-5/8 inches for the left. Dr. Kudray also disagreed with Dr. Obianwu's finding that there was no reproducible pain with digital pressure and indicated that there was no mention of grip strength which was greatly decreased with significant muscle atrophy noted on the right. She also indicated that, because appellant's condition was not accepted, her atrophy has significantly worsened. This report is insufficient to establish the claim as the physician did not provide a history of injury<sup>5</sup> or specifically address how the work duties caused or aggravated the diagnosed conditions.<sup>6</sup> Although Dr. Kudray diagnosed de Quervain's tenosynovitis, she did not provide medical rationale explaining how any diagnosed condition was causally related to sorting mail and repetitive motion at work.<sup>7</sup> Dr. Kudray disagreed with Dr. Obianwu's measurements for wrist circumference, his findings of no reproducible pain with digital pain and the lack of grip strength findings. However, Dr. Obianwu's measurements were based on clinical findings at the time he evaluated appellant

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<sup>4</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>5</sup> *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

<sup>6</sup> *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>7</sup> *F.T.*, Docket No. 09-919 (issued December 7, 2009) (a medical opinion not fortified by rationale is of diminished probative value).

and he noted that the October 27, 2009 MRI scan confirmed his clinical findings as the MRI scan did not substantiate the diagnosis of intersection syndrome.

The Board finds that appellant did not submit sufficient medical evidence to meet her burden of proof to establish that the de Quervain's tenosynovitis or intersection syndrome is causally related to employment factors. Neither, the fact that a claimant's condition became apparent during a period of employment nor the belief that the condition was caused, precipitated or aggravated by the employment is sufficient to establish causal relationship.<sup>8</sup>

Appellant may submit new evidence or argument with a 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.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that her claimed conditions were causally related to her employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 15, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 10, 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

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<sup>8</sup> *D.I.*, 59 ECAB 158 (2007).