



## **FACTUAL HISTORY**

On February 4, 2013 appellant, then a 60-year-old scheduler, filed an occupational disease claim (Form CA-2) alleging that on September 11, 2012 she first became aware of her condition of pain and numbness in her hands and arms which she attributed to her employment on that date. She noted that she also started experiencing pain from an old on-the-job injury that happened in 1993. Appellant noted that she experienced pain and numbness in her hands and arms after door closures were installed at the employing establishment. She noted that she did not remember when the door closures were installed. On the reverse side of the claim form, appellant's supervisor indicated that appellant reported her condition on August 28, 2012. There is no indication that appellant stopped work.

OWCP requested additional factual and medical evidence in support of appellant's claim by letter dated October 23, 2013. It allowed 30 days for a response. No response was received.

By decision dated December 30, 2013, OWCP denied appellant's claim as she failed to submit any medical evidence and failed to describe the employment duties which she felt caused or contributed to her medical condition.

Appellant requested a review of the written record by an OWCP hearing representative on January 13, 2014. She submitted additional evidence following this request. On July 20, 1993 appellant received treatment for a work-related crush injury to her left thumb at the employing establishment clinic. Dr. Christina Vokt, a physician Board-certified in physical medicine and rehabilitation and an employing establishment physician, examined appellant on July 3, 2008 and found she had ongoing hand and arm pain from 2001. She listed appellant's employment duties as performing as a machinist for 18 years including repetitive, strenuous, vibratory manual hand work and in 2001 beginning work as a workload manager on a computer all day. Dr. Vokt diagnosed de Quervain's tenosynovitis, and right index, middle, and ring, trigger fingers and carpal tunnel syndrome. She noted that appellant's carpal tunnel syndrome was work related due to the aforementioned activities and noted these led to "chronic irritation, inflammation and compression of the structures of the carpal tunnel and symptoms." Dr. Vokt also opined that appellant's de Quervain's tenosynovitis was from the same mechanism. She completed a form report on July 3, 2008 and notified appellant's supervisor that she had a bilateral hand condition. On July 31, 2008 Dr. Vokt released appellant to return to full duty after disability due to a bilateral hand and wrist condition and again notified her supervisor of her condition. A note dated August 6, 2008 indicated that Dr. Vokt's July 3, 2008 form report "has been investigated and found to be occupationally related."

Appellant submitted form reports dated April 26, August 28, September 11, and 23, 2012 signed by a physician assistant with the employing establishment health clinic. The record contains an administrative note dated March 8, 2013 that a January 22, 2013 form was determined to be occupationally related.

Dr. Douglas Fuller, a Board-certified family practitioner and employing establishment physician, completed notes dated August 28, September 11 and 25, December 13, 2012, and January 22, 2013. He noted that appellant had bilateral hand and wrist pain from a crush injury to the left hand and wrist on July 20, 1993 sustained while she was working as an aircraft

mechanic as well as a July 8, 2008 claim for chronic pain in both hands and wrists.<sup>3</sup> Dr. Fuller noted that appellant reported pain in her hands when opening doors and performing manual tasks, including typing and mouse use at work. He noted that appellant's pain in her left hand likely corresponded with her reported work injury in 1993. Dr. Fuller diagnosed tenosynovitis of the hand and wrist which he related to her 2008 examination by Dr. Vokt. He also diagnosed osteoarthritis of the carpometacarpal joint of the left thumb which he felt was related to her prior crush injury, and carpal tunnel syndrome.<sup>4</sup> Dr. Fuller noted that these conditions were work related.

Appellant submitted a letter dated November 5, 2013 addressed to OWCP in which she noted that she was requesting that her old claims be reopened to receive medical attention. She noted that she had not sustained new injuries.

By decision dated July 10, 2014, OWCP's hearing representative affirmed OWCP's December 30, 2013 decision. The hearing representative found that appellant "has not claimed any specific injury which can be considered to determine if she established her claim." Thus, appellant had not met the factual component.

### **LEGAL PRECEDENT**

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."<sup>5</sup> 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, noted differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>6</sup>

An employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.<sup>7</sup> Moreover, an injury does not have to be confirmed by eyewitnesses. The employee's statement, however, must be consistent with the surrounding facts and circumstances and her subsequent course of action. An employee has not met her burden in establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of

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<sup>3</sup> Dr. Fuller referenced OWCP claim number xxxxxx990. This claim is not associated with the claim on appeal.

<sup>4</sup> Dr. Fuller referenced OWCP claim number xxxxxx308 in regard to appellant's bilateral carpal tunnel syndrome. This claim is not associated with the claim on appeal.

<sup>5</sup> 20 C.F.R. § 10.5(q).

<sup>6</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

<sup>7</sup> *R.T.*, Docket No. 08-408 (issued December 16, 2008); *Gregory J. Reser*, 57 ECAB 277 (2005).

the claim. Circumstances such as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast doubt on an employee's statement in determining whether a *prima facie* case has been established.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has failed to meet her burden of proof to establish an injury causally related to factors of her federal employment.

Appellant submitted medical evidence from Dr. Fuller beginning in August 2012 diagnosing tenosynovitis of the hand and wrist, osteoarthritis of the carpometacarpal joint of the left thumb, and bilateral carpal tunnel syndrome. She has, therefore, submitted sufficient medical evidence of conditions to meet the first element of an occupational disease claim, medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed.

Appellant asserted that her hands and wrists began to hurt after door closures were installed at the employing establishment. She noted that she did not recall when the door closures were installed. Appellant did not offer any information regarding when she was required to open the doors with closures, the number of times that she was required to open the doors with closures, or the weight of these doors.<sup>9</sup> The Board finds that appellant has not provided sufficient factual evidence to implicate an employment factor of operating doors with closures at the employing establishment such that she has established the second element of an occupational disease claim, a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition. Furthermore, appellant submitted a statement dated November 5, 2013 asserting that she had not sustained additional injuries, but she was requesting that her old claims be reopened.<sup>10</sup> As she has not provided a detailed factual statement describing her employment duties which she believed caused or contributed to her diagnosed hand and wrist conditions, appellant has failed to establish an occupational disease claim.

The Board finds that appellant has not submitted the necessary factual evidence to establish that she sustained an injury due to factors of her federal employment. As appellant has

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<sup>8</sup> *Betty J. Smith*, 54 ECAB 174 (2002).

<sup>9</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.3 (August 2012) (this section of the procedure manual provides that a claimant should describe the amount, volume, duration, as well as other aspects of the claimed work factors in an occupational disease claim).

<sup>10</sup> Appellant's submitted form reports from a physician assistant. These reports are not considered medical evidence as physician assistants are not considered physicians as defined by FECA. Therefore they are of no probative value and do not constitute competent medical evidence. 5 U.S.C. § 8101(2); *George H. Clark*, 56 ECAB 162 (2004); *S.P.*, Docket No. 14-1879 (issued February 19, 2015).

not established an employment incident or exposure alleged to have caused an injury, it is not necessary to consider any medical evidence.<sup>11</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 has not established that she sustained an injury causally related to factors of her federal employment.<sup>12</sup>

### **ORDER**

**IT IS HEREBY ORDERED THAT** the July 10, 2014 decision of the Office of Workers' Compensation Programs is affirmed.<sup>13</sup>

Issued: August 26, 2016  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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

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<sup>11</sup> See *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>12</sup> Appellant contends on appeal that she was attempting to file claims for a recurrence of disability under OWCP File Nos. xxxxxx990 and xxxxxx308. Upon return of the case record, appellant may pursue these claims with OWCP.

<sup>13</sup> James A. Haynes, Alternate Judge, participated in the original decision but was no longer a member of the Board effective November 16, 2015.