United States Department of Labor
Employees' Compensation Appeals Board

G.R., Appellant	)	
and	)	**Docket No. 16-1201**
	)	**Issued: December 7, 2016**
DEPARTMENT OF THE AIR FORCE, FAIRCHILD AIR FORCE BASE, Airway Heights, WA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 22, 2016 appellant filed a timely appeal of a March 1, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.[2]

ISSUE

The issue is whether appellant met his burden of proof to establish that his left carpal tunnel syndrome was causally related to his accepted January 8, 2015 employment injury.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the March 1, 2016 decision, OWCP received additional evidence. However, the Board may only review evidence that was in the record at the time OWCP issued its final decision. *See* 20 C.F.R. § 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

FACTUAL HISTORY

On February 2, 2015 appellant, then a 57-year-old detective, filed a traumatic injury claim (Form CA-1) alleging that on January 8, 2015 he injured his neck, left elbow, and shoulder, and sustained a right hand cut, when he slipped and fell on an icy surface while placing items into a dumpster. He did not stop working. OWCP accepted appellant's claim for resolved left upper arm contusion and resolved left shoulder joint sprain.

Appellant submitted treatment reports dated February 5, 24, and May 1, 2015 from Dr. Jeffrey R. O'Connor, Board-certified in family practice and geriatric medicine. Dr. O'Connor provided physical examination findings and diagnosed left ulnar contusion and trapezius strain. He opined that these conditions had resolved as of his May 1, 2015 report and recommended closure of the claim.

On May 29, 2015 Dr. O'Connor related that appellant's left arm had begun to hurt again. He noted that the symptoms had resolved by the time appellant was evaluated two weeks prior, but he had become symptomatic again. Dr. O'Connor indicated that the pain probably had been precipitated by appellant's work on his deck and yard.

A July 7, 2015 electromyogram test and nerve conduction velocity study (EMG/NCV) showed evidence of moderate-to-severe left carpal tunnel syndrome and left ulnar nerve entrapment at the elbow.

In an August 17, 2015 report, Dr. O'Connor diagnosed a severe left carpal tunnel syndrome and ulnar nerve injury, which he opined was more probably due to the employment injury and not to deck building or yard work. In support of this conclusion, he related that the objective findings and time frame were inconsistent with yard work and building a deck causing this injury, but were consistent with the employment injury. Dr. O'Connor opined that appellant would not have these conditions but for the accepted employment injury.

In a September 9, 2015 report, Dr. Randall Espinosa, a Board-certified orthopedic surgeon, diagnosed left carpal tunnel syndrome and left cubital tunnel, and noted that appellant sustained a work-related injury on January 8, 2015. Examination of the left upper extremity included positive elbow Tinel's sign, positive Phalen's test, normal range of motion, mild elbow swelling, and diminished hand sensation in the median and ulnar distributions. Dr. Espinosa recommended left carpal tunnel decompression surgery.

In a November 19, 2015 report, Dr. O'Connor provided a history of the employment injury and medical treatment. At the time of the injury, he noted that he diagnosed a left elbow olecranon contusion and hematoma. Dr. O'Connor reported that appellant complained of left elbow numbness along the ulnar nerve distribution to the forearm. While appellant's neck pain improved, he noted that appellant continued to have left forearm weakness and persistence of the ulnar nerve injury. According to Dr. O'Connor it appeared that as of May 1, 2015 appellant's ulnar contusion and trapezius strain had resolved, but then his symptoms recurred. He opined that the recurrence of the symptoms may have been precipitated by yard work, but that the January 2015 employment injury was the direct cause of the symptoms. Dr. O'Connor reported that appellant had been diagnosed with left carpal tunnel syndrome which was attributed to a

forearm injury. In support of his opinion attributing the ulnar nerve injury and left carpal tunnel syndrome to the accepted work injury, Dr. O'Connor observed that the ulnar nerve injury had been caused by the olecranon contusion which was adjacent to the ulnar nerve.

In a December 1, 2015 report, OWCP's medical adviser opined that the evidence of record was sufficient to warrant an upgrade of appellant's claim to include a left ulnar lesion, but insufficient to establish that the diagnosed left carpal tunnel syndrome was causally related to the January 8, 2015 employment injury.[3]

In a December 1, 2015 report, Dr. O'Connor provided examination findings and diagnosed left ulnar contusion and left carpal tunnel syndrome. He opined that both conditions were work related and unchanged since the January 8, 2015 work injury.

By decision dated December 18, 2015, OWCP expanded the acceptance of appellant's claim to include left upper limb ulnar nerve lesion.

On January 7, 2016 OWCP referred appellant to Dr. St. Elmo Newton, III, a Board-certified orthopedic surgeon, to resolve the conflict in the medical opinion evidence between Dr. O'Connor and the medical adviser on the issue of whether appellant's left carpal tunnel syndrome was causally related to the January 8, 2015 employment injury.

On January 25, 2016 OWCP received a January 12, 2016 report by Dr. Espinosa diagnosing left carpal tunnel syndrome, left ulnar nerve lesion, left forearm tenosynovitis and synovitis, and left wrist primary osteoarthritis. Dr. Espinosa provided examination findings and diagnostic test results. He noted that OWCP denied coverage for appellant's left carpal tunnel syndrome, but authorized cubital tunnel release. Dr. Espinosa opined that both conditions were causally related to the accepted January 8, 2015 employment injury.

In a February 11, 2016 report, Dr. Newton provided a history of the employment injury and summarized the medical evidence, which included medical reports from Drs. O'Connor and Espinosa. Physical examination findings included hypersensitivity over the ulnar nerve; tenderness over the elbow, medial condyle, and ulnar nerve; tenderness to touch of the olecranon; negative Finkelstein's test; negative ulnar loading test; and negative Tinel's sign. Dr. Newton diagnosed left elbow contusion and sprain and left elbow ulnar nerve contusion due to the January 8, 2015 work injury. He also diagnosed left wrist carpal tunnel syndrome, which he concluded was unrelated to the January 8, 2015 work injury, and left wrist discomfort of an unknown etiology. Dr. Newton reported that, as there was no significant left wrist trauma, it was unlikely that appellant would have developed severe left carpal tunnel syndrome within five months following the left elbow sprain/contusion. He further noted that appellant's left carpal tunnel syndrome was asymptomatic from a clinical viewpoint.

By decision dated March 1, 2016, OWCP found that appellant had not established that his left carpal tunnel syndrome was causally related to the January 8, 2015 employment injury. It found that Dr. Newton, the impartial medical specialist chosen to resolve a conflict in medical opinion, provided a report containing a complete and accurate medical history, reported the

[3] On January 4, 2016 OWCP authorized left revision of the elbow ulnar nerve.

results of a physical examination, and used the results of the physical examination for a well-rationalized medical opinion. OWCP therefore afforded Dr. Newton the special weight of the evidence to deny the left carpal tunnel syndrome condition.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the evidence,[4] including that he or she sustained an injury in the performance of duty and that any specific condition or disability for which he or she claims compensation is causally related to that employment injury.[5]

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between the claimed medical condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury, and must explain from a medical perspective how the current condition is related to the injury.[6]

Proof of causal relationship in a case such as this must include supporting rationalized medical evidence. Thus, in order for a surgery to be authorized, appellant must submit evidence to show that the requested procedure is for a condition causally related to the employment injury and that it is medically warranted. Both of these criteria must be met in order for OWCP to authorize payment.[7]

For conditions not accepted by OWCP as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation, not OWCP's burden to disprove such relationship.[8]

Section 8123(a) of FECA[9] provides that, if there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.[10] When there exist opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if

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[4] *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

[5] *J.B.*, Docket No. 14-0163 (issued April 7, 2014).

[6] *Id.*

[7] *Cathy B. Mullin*, 51 ECAB 331 (2000).

[8] *G.A.*, Docket No. 09-2153 (issued June 10, 2010); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Alice J. Tysinger*, 51 ECAB 638 (2000).

[9] 5 U.S.C. § 8123(a).

[10] *Id.*; *see J.J.*, Docket No. 09-27 (issued February 10, 2009); *Y.A.*, 59 ECAB 701 (2008); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Geraldine Foster*, 54 ECAB 435 (2003).

sufficiently well rationalized and based upon a proper factual background, must be given special weight.[11]

ANALYSIS

OWCP accepted appellant's claim for resolved left upper arm contusion and resolved left shoulder joint sprain, and subsequently expanded acceptance of the claim to include left upper limb ulnar nerve lesion. Appellant alleged that his left carpal tunnel syndrome had also been caused by the January 8, 2015 employment injury, but this condition has not been accepted by OWCP as due to the accepted work injury.

On August 17 and November 19, 2015 Dr. O'Connor diagnosed severe left carpal tunnel syndrome, which he attributed to the January 8, 2015 employment injury. In a September 9, 2015 report, Dr. Espinosa diagnosed left cubital and left carpal tunnel syndrome, noted appellant had sustained an employment injury on January 8, 2015, and recommended left carpal tunnel decompression surgery.

OWCP referred the record to OWCP's medical adviser for an opinion as to whether appellant's claim should be expanded to include additional conditions. In his December 1, 2015 report, the medical adviser recommended expansion of the claim to include a left ulnar lesion, but found the medical evidence insufficient to establish that the diagnosed left carpal tunnel was causally related to the January 8, 2015 employment injury.

The Board finds that OWCP properly determined that there was a conflict of medical opinion evidence between appellant's treating physicians and OWCP's medical adviser regarding whether the left carpal tunnel syndrome and recommended left carpal decompression surgery were employment related.[12]

Due to the conflict in the medical opinion evidence regarding whether the left carpal tunnel syndrome and recommended decompression surgery were employment related, OWCP referred appellant to Dr. Newton for an impartial medical examination. Dr. Newton, based upon a physical examination and review of the statement of accepted facts and medical evidence, including reports from Drs. Espinosa and O'Connor, concluded that the left wrist carpal tunnel syndrome was unrelated to the January 8, 2015 work injury as appellant had not sustained significant left wrist trauma and he was clinically asymptomatic.

The Board finds that Dr. Newton's February 11, 2016 report is sufficiently detailed and well rationalized to constitute the special weight of the medical opinion accorded an impartial medical examiner. Dr. Newton conducted an orthopedic examination and reviewed objective tests and found there was no relationship between appellant's left carpal tunnel syndrome and the January 8, 2015 employment injury. Thus, the Board finds that Dr. Newton's opinion as set

[11] *S.R.*, Docket No. 09-2332 (issued August 16, 2010); *Darlene R. Kennedy, id.*; *Gloria J. Godfrey*, 52 ECAB 486, 489 (2001).

[12] *Supra* note 10.

forth in his February 11, 2015 report is probative and reliable evidence.[13] Accordingly, Dr. Newton's opinion constitutes the special weight of the evidence that appellant's left carpal tunnel was not causally related to the accepted injury.[14]

The Board further finds that the medical evidence submitted by appellant prior to Dr. Newton's impartial medical examination is insufficient to overcome the weight of this report or to create another conflict in medical evidence. Appellant submitted a January 12, 2016 report, of Dr. Espinosa, wherein he opined that the left carpal tunnel syndrome was causally related to the January 8, 2015 employment injury and the requested surgery was necessary. The Board has held that medical evidence consisting solely of conclusory statements without supporting rationale is of little probative value.[15] A mere conclusory opinion provided by a physician without the necessary rationale explaining how and why the incident or work factors were sufficient to result in the diagnosed medical condition is insufficient to meet a claimant's burden of proof to establish a claim.[16] Thus, the Board finds this this report is of limited probative value as he offered a conclusion unsupported by medical rationale and is insufficient to create a conflict with Dr. Newton's opinion. The Board finds that Dr. Newton's opinion constitutes the special weight of the medical evidence and supports OWCP's decision that appellant's left carpal tunnel syndrome was not caused or aggravated by the accepted January 8, 2016 employment injury.[17]

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 his burden of proof to establish that his left carpal tunnel syndrome was causally related to the accepted employment incident.

[13] *L.D.*, Docket No. 15-0220 (issued August 5, 2015).

[14] *Id*.

[15] *See T.M.*, Docket No. 08-975 (issued February 6, 2009); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *William C. Thomas*, 45 ECAB 591 (1994) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

[16] *J.D.*, Docket No. 14-2061 (issued February 27, 2015).

[17] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 1, 2016 is affirmed.

Issued: December 7, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board