

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

I.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
San Francisco, CA, Employer**

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**Docket No. 18-1118
Issued: December 31, 2018**

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 10, 2018 appellant filed a timely appeal from a February 28, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish a right wrist/hand condition causally related to the accepted factors of her federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the February 28, 2018 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On January 10, 2018 appellant, then a 35-year-old clerk, filed an occupational disease claim (Form CA-2) alleging that she developed a right wrist injury as a result of her repetitive employment duties which entailed pushing a heavy cart for multiple hours a day. She noted that she first became aware of this condition and its relationship to her federal employment on May 1, 2017. Appellant stopped work on June 9, 2017.

In a May 23, 2017 work activity status report, Dr. Martin L. Scott, an osteopath, diagnosed sprain of right wrist and hand. He released appellant to work with restrictions.

By development letter dated January 18, 2018, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of medical and factual evidence needed and afforded her 30 days to submit the necessary evidence. No further evidence was received.

By decision dated February 28, 2018, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that the diagnosed sprain of her right wrist and hand was causally related to the established factors of federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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 filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.⁴

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.⁵

To establish causal relationship between the condition, as well as any attendant disability claimed, and the employment event or incident, the employee must submit rationalized medical

³ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *R.B.*, Docket No. 18-0720 (issued November 13, 2018).

opinion evidence supporting such causal relationship.⁶ 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁷

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right wrist/hand condition causally related to the accepted factors of her federal employment.⁸

In support of her claim, appellant submitted a May 23, 2017 work activity status report from Dr. Scott who diagnosed sprain of right wrist and hand. The Board finds that his report is insufficient to establish her occupational disease claim.⁹ While Dr. Scott noted a firm medical diagnosis, he failed to provide an opinion on the cause of appellant's injury.¹⁰ The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value.¹¹ Dr. Scott failed to identify appellant's work as a mail clerk and had no understanding of her federal employment duties to establish causation. He provided no explanation as to the mechanism of injury pertaining to this occupational disease claim, namely, how repetitively pushing a heavy mail cart would cause appellant's right wrist injury.¹² Without mention of the repetitive employment duties, any findings made could not be related to her claim to establish causal relationship.¹³ As Dr. Scott failed to provide a medically sound explanation of how the specific employment factors, in particular physiologically, caused or aggravated appellant's right wrist sprain, his report is insufficient to establish her claim.¹⁴

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relationship.¹⁵ Appellant's honest belief that the factors of her

⁶ See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁷ *James Mack*, 43 ECAB 321 (1991).

⁸ See *Robert Broome*, 55 ECAB 339 (2004).

⁹ *J.I.*, Docket No. 18-0286 (issued September 17, 2018).

¹⁰ *D.H.*, Docket No. 11-1739 (issued April 18, 2012).

¹¹ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *S.W.*, Docket 08-2538 (issued May 21, 2009).

¹³ *S.Y.*, Docket No. 11-1816 (issued March 16, 2012).

¹⁴ *T.G.*, Docket No. 14-0751 (issued October 20, 2014).

¹⁵ *G.M.*, Docket No. 18-0613 (issued October 15, 2018).

federal employment caused her medical condition, however, sincerely held, does not constitute medical evidence sufficient to establish causal relationship.¹⁶

For these reasons, the Board finds that the medical evidence of record is insufficient to establish causal relationship between appellant's federal employment duties as a mail clerk and her right wrist/hand sprain.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 has not met her burden of proof to establish a right wrist/hand condition causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the February 28, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 31, 2018
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

¹⁶ *J.S.*, Docket No. 18-0477 (issued August 28, 2018).

¹⁷ *T.O.*, Docket No. 18-0139 (issued May 24, 2018).