

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

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D.B., Appellant)	
)	
and)	Docket No. 24-0569
)	Issued: July 9, 2024
U.S. POSTAL SERVICE, RIDGEWOOD POST)	
OFFICE, Ridgewood, NY, Employer)	
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Appearances:

Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On May 7, 2024 appellant, through counsel, filed a timely appeal from an April 4, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

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

FACTUAL HISTORY

On December 5, 2022 appellant, then a 52-year-old letter carrier, filed a notice of recurrence (Form CA-2a) alleging that on December 4, 2021 she experienced a recurrence of a previously-accepted left radial fracture and de Quervain's tenosynovitis of the left wrist under OWCP File No. xxxxxx754 and stopped work on that date.³ She indicated that after she returned to work, she was placed on limited duty. Appellant noted tingling, numbness, and locking of the finger since she returned to work. She stated that her physician advised that she stop work after a December 3, 2021 appointment.

On September 23, 2014 appellant underwent a left de Quervain's release and left trigger thumb release procedure.

In a duty status report (Form CA-17) dated July 3, 2018, Dr. Steven Lee, a Board-certified orthopedic hand surgeon, diagnosed left de Quervain's tenosynovitis and left carpal tunnel syndrome. He advised that she should remain off work until further notice. In a Form CA-17 dated September 11, 2018, Dr. Lee diagnosed carpal tunnel syndrome, radial styloid tenosynovitis, and trigger finger and advised that appellant could return to work as of September 12, 2018 with restrictions of no lifting or carrying more than five pounds continuously or ten pounds intermittently for up to eight hours per day.

A magnetic resonance imaging (MRI) scan of the left wrist obtained on September 1, 2018 demonstrated a small full-thickness defect of the central articular disc of the triangular fibrocartilage complex (TFCC), new compared to a prior examination on February 16, 2014; minimal fourth extensor compartment tenosynovitis; and a bifid median nerve and persistent median artery.

An electromyogram and nerve conduction velocity (EMG/NCV) study obtained on September 11, 2018 demonstrated evidence of moderate right median neuropathy at the wrist without acute denervation, consistent with moderate right carpal tunnel syndrome.

In a Form CA-17 dated September 23, 2019, Dr. Lee diagnosed left carpal tunnel syndrome, left de Quervain's tenosynovitis, and left trigger thumb, advising that appellant could

³ OWCP assigned the present claim OWCP File No. xxxxxx859. Appellant has two other claims involving the left upper extremity. On December 13, 2013 she filed a traumatic injury claim (Form CA-1) related to a December 13, 2013 incident under OWCP File No. xxxxxx754, which OWCP accepted for left radial fracture and de Quervain's tenosynovitis of the left wrist. The Form CA-2a noted above was filed under OWCP File No. xxxxxx754 and was subsequently converted to a new occupational disease claim, assigned OWCP File No. xxxxxx859. On December 7, 2021 appellant filed an occupational disease claim (Form CA-2) alleging duties of her federal employment caused or aggravated left carpal tunnel syndrome and left de Quervain's tenosynovitis under OWCP File No. xxxxxx082, which OWCP denied by decision dated February 16, 2022. OWCP has administratively combined OWCP File Nos. xxxxxx859, xxxxxx754, and xxxxxx082 with OWCP File No. xxxxxx754 serving as the master file.

return to work with restrictions of no walking, climbing, pulling, pushing, fine manipulation, reaching above the shoulder, or driving a vehicle; and no lifting or carrying of more than fifteen pounds continuously or intermittently for up to eight hours per day.

In notes dated September 23, 2019, Dr. Lee diagnosed left carpal tunnel syndrome, radial styloid tenosynovitis, and acquired trigger finger. He recommended approval for surgery to treat these conditions.⁴

In a report dated August 7, 2023, Dr. Lee noted that appellant was under treatment for left de Quervain's tenosynovitis, left carpal tunnel syndrome, and left thumb trigger finger, and had been seen in his office most recently on December 5, 2022. He recommended surgery, with procedures of left de Quervain's release, left endoscopic carpal tunnel release, and left thumb trigger finger release. Dr. Lee also recommended that appellant work light duty, with restrictions of no repetitive use of the left hand for gripping, grasping, pinching, pushing, pulling, or carrying; and no lifting over 10 pounds.

In a development letter dated September 27, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a development letter of the same date, OWCP requested additional information from the employing establishment regarding appellant's claim, including comments from a knowledgeable supervisor.

In an undated response, a supervisor at the employing establishment stated that appellant was following her work restrictions and that as of September 4, 2021, she was able to deliver mail for up to four hours per day, but was assigned to deliver mail for three hours per day. The supervisor noted that, in a Form CA-17 of September 15, 2021, appellant was advised to work up to six hours per day out on the street, but that she still only worked three hours per day out on the street. Appellant worked a total of six hours per day.

In an attached offer of modified assignment for limited duty, appellant accepted a position as a modified city carrier on September 4, 2021. The duties of the modified assignment were to deliver mail weighing up to five pounds on foot for up to four hours per day; racking, casing, and tying down routes for up to two hours per day; sanitizing, cleaning, and disinfecting carrier cases and work areas for up to four hours per day; and sweeping, mopping, and cleaning a lobby, workstations, and restrooms for up to eight hours per day. The physical requirements of the position included sitting, standing, walking, grasping, and reaching above the shoulder for up to eight hours per day; lifting up to five pounds and carrying intermittently for up to eight hours per day; climbing, kneeling, bending, stooping, twisting, pulling, and pushing for up to eight hours per day; and driving and repetitive movements of the hands, wrists, and elbows for up to eight hours per day.

In an attached Form CA-17 dated September 15, 2021, Dr. Lee diagnosed left carpal tunnel syndrome and left de Quervain's tenosynovitis. He advised that appellant could resume work on that date with restrictions of sitting, standing, walking, climbing, kneeling, bending, stooping,

⁴ Appellant separated from the employing establishment on disability retirement as of December 22, 2022.

twisting, and fine manipulation intermittently up to six hours per day; and pulling, pushing, simple grasping, and reaching over the shoulder of objects weighing less than five pounds for up to six hours per day. Dr. Lee further noted restrictions of no sanitizing, cleaning, or disinfecting carrier cases and no sweeping, mopping, or cleaning of workstations.

In a November 9, 2023 follow-up development letter, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the September 27, 2023 development letter to submit the requested supporting evidence. OWCP further advised that if the requested evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated December 18, 2023, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with her claim. Consequently, it found that she had not met the requirements to establish an injury as defined by FECA.

On December 27, 2023 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on February 28, 2024. No further evidence was received.

By decision dated April 4, 2024, OWCP's hearing representative modified the December 18, 2023 decision to find that the medical evidence of record was sufficient to establish a diagnosis in connection with the claim. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between that medical diagnosis and the accepted employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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 timely filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁶ 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.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which

⁵ *Supra* note 2.

⁶ *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation is claimed; and (3) rationalized medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ 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.⁹

ANALYSIS

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

In reports dated July 3, 2018 through August 7, 2023, Dr. Lee provided diagnoses of left carpal tunnel syndrome, de Quervain's tenosynovitis, and acquired trigger finger, and he noted appellant's work restrictions. However, none of the medical evidence from Dr. Lee included an opinion on causal relationship. 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 on the issue of causal relationship.¹⁰ The Board, therefore, finds that this evidence is insufficient to establish the claim.

The remainder of the medical evidence of record consists of reports of diagnostic studies. The Board has held that diagnostic studies, standing alone, lack probative value, and are insufficient to establish the claim.¹¹ Therefore, this evidence is also insufficient to establish the claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted factors of federal employment, the Board finds that appellant has not met her burden of proof.

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.

⁷ *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

¹⁰ *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ *See J.K.*, Docket No. 20-0591 (issued August 12, 2020); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the April 4, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 9, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board