

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

ALISIA C. THOMAS, Appellant)	
)	
and)	Docket No. 05-589
)	Issued: September 8, 2005
U.S. POSTAL SERVICE, POST OFFICE, Gaithersburg, MD, Employer)	
)	

Appearances:
Ann Witek Bravmann, Esq.
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On January 11, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' decision dated October 13, 2004 which denied modification of a July 17, 2003 decision which found that she did not establish that certain medical conditions were causally related to her accepted employment injuries. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over these issues.

ISSUES

The issue is whether appellant met her burden of proof in establishing that her right rotator cuff tear, cervical strain, traumatic synovitis of the flexor tendon of the right wrist and hand with compression neuropathy and right carpal tunnel syndrome are causally related to her accepted employment injuries.

FACTUAL HISTORY

On December 23, 2001 appellant, then a 34-year-old mark up clerk, filed a traumatic injury claim alleging that on December 14, 2001 she developed pain in the arm, elbow and back of the neck and her hand started swelling rapidly while keying in the performance of duty. She alleged that her injury occurred after she worked in the mechanized area and keyed mail.

Appellant also noted unloading tubs weighing up to 30 pounds. She stopped work on December 15, 2001.¹

Appellant submitted treatment notes excusing her from work from December 14, 2001 to January 2, 2002, from Dr. Kevin Ford, a Board-certified internist. On January 2, 2002 he indicated that she was keying at work when her neck began to tingle and her shoulder and arm began to hurt and swell. He restricted appellant from certain activities at work.

In a January 7, 2002 report, Dr. Rida N. Azer, a treating Board-certified orthopedic surgeon, described the history of injury as occurring while repetitively moving objects weighing over 30 pounds.² He diagnosed impingement syndrome, right shoulder rule out traction injury, brachial plexus versus compression neuropathy, right median nerve at the right wrist and right ulnar nerve at the right elbow versus radiculopathy. Dr. Azer advised that appellant should avoid any strenuous use of the right hand, pushing, pulling and lifting of heavy objects with the right hand, overhead use of the right hand and strenuous activities. In a January 7, 2002 treatment note, he indicated that appellant's restrictions should continue until January 28, 2002. Dr. Azer marked "yes" in response to whether the diagnosis was due to the injury. On that same date he performed orthogenesis on the right shoulder. Dr. Azer continued to submit reports.

In a January 15, 2002 electromyography (EMG) report, Dr. Daniel Ignacio, Board-certified in physical medicine and rehabilitation, related that appellant alleged that she was injured at work while keying. He diagnosed right carpal tunnel syndrome, right shoulder strain, impingement syndrome and cervical strain syndrome. Dr. Ignacio advised that appellant had normal EMG studies; however, he did find an abnormal electrodiagnostic study revealing evidence of right median nerve conduction block across the right wrist consistent with carpal tunnel syndrome.

A February 14, 2002 magnetic resonance image (MRI) scan was read by Dr. Raymond Tu, a Board-certified diagnostic radiologist. He noted that appellant had narrowing of the subacromial space due to spurring of the acromioclavicular joint. He also advised that she had mild tendinitis of the anterior fibers of the supraspinatus tendon; however, Dr. Tu indicated that there were no signs of a full-thickness tear.

Appellant continued to see Dr. Azer who described the history of injury as keying on a keyboard and also diagnosed a strain to the right shoulder and right carpal tunnel.³

On February 22, 2002 appellant filed a CA-7 form claiming wage-loss compensation from December 14, 2001 to March 8, 2002. She also filed a CA-7 form for wage-loss compensation from March 8 to 15, 2002.

¹ The record reflects that appellant has a previous claim which was accepted by the Office for an injury to her right shoulder on June 29, 1999 Claim No. A25-544242. The accepted condition appears to be impingement syndrome of the right shoulder. However, the record before the Board does not contain a copy of that claim.

² The report is dated January 7, 2001; however, this is a typographical error.

³ In a February 22, 2002 note, Dr. Azer indicated that appellant had contacted her insurance carrier, who gave another number and advised her that her December 14, 2001 injury was a recurrence of her June 20, 1999 injury.

In a March 12, 2002 report, Dr. Azer indicated that he had reviewed the diagnostic studies which showed that appellant had right carpal tunnel syndrome. He also advised that the MRI scan of the right shoulder revealed osteophytes in the acromioclavicular joint and degeneration of the supraspinatus tendon, which was retracted. Dr. Azer noted that appellant was not improving with conservative treatment and recommended surgery, which included decompression, right carpal tunnel syndrome, an excision biopsy synovial flexor tendon, right wrist and hand and at the same time, she would have diagnostic and therapeutic arthroscopy of the right shoulder. He opined that appellant had traumatic synovitis of the flexor tendon of the right wrist and hand with compression neuropathy of the right median nerve and carpal tunnel syndrome and impingement syndrome of the right shoulder with probable tear of the right rotator cuff.

In an April 9, 2002 report, Dr. Ford noted that appellant's "right trapezius strain and right lateral epicondylitis were due to the heavy lifting required by her work position."

By decision dated April 26, 2002, the Office denied appellant's claim. The Office found that the evidence was insufficient to establish that she experienced the accident at the time, place and in the manner alleged because appellant indicated that her pain was from keying and the doctor's reports indicated that the injury occurred after she lifted an item weighing over 30 pounds.

In an April 17, 2002 report, Dr. Azer diagnosed sprain of the right shoulder and carpal tunnel syndrome. He checked the box "yes" in response to whether her condition was caused or aggravated by the employment injury and advised that appellant was disabled January 7 to 8, 2002 and indicated that she could return to light duty on February 22, 2002. On May 3, 2002 Dr. Azer advised that she was keying on the keyboard and her hands were swollen and diagnosed cervical strain and impingement syndrome. In a May 16, 2002 report, Dr. Azer diagnosed impingement syndrome, strain to the right shoulder and carpal tunnel syndrome and advised that appellant was to avoid pushing, pulling or lifting and overhead use of the right upper extremity. Dr. Azer indicated that she was awaiting surgery. In a July 16, 2002 report, he advised that she had tenderness over the volar carpal ligament with a positive Tinel's sign over the right median nerve and hypoesthesia over the right median nerve distribution and opined that appellant needed surgery.

By letter dated July 10, 2002, the employing establishment advised appellant that it did not have any light-duty positions.

By letter dated April 22, 2003, appellant, through her representative, requested reconsideration and submitted additional evidence and argument.

In an October 23, 2002 report, Dr. Azer advised that appellant's prior injury of June 29, 1999 was part of the cause of her condition. He indicated that the combination of a cervical strain was an injury to the muscles and ligaments with partial tear in the fibers that caused radiculopathy and associated with right carpal tunnel syndrome could cause a double crush injury. Dr. Azer opined that appellant should avoid activities that involved multiple movements of the hands, having her hands close to machinery, pushing, pulling or lifting heavy objects and strenuous use of the hand and overhead use of the hand.

By decision dated July 17, 2003, the Office modified the April 26, 2002 decision and accepted the claim for right trapezius (shoulder) strain, right lateral epicondylitis and tendinitis of the right wrist. The Office denied a right rotator cuff tear, cervical strain traumatic synovitis of the flexor tendon of the right wrist and hand with compression neuropathy and right carpal tunnel syndrome. The Office advised that the record contained no explanation as to how these conditions developed over a six-hour workday. Regarding a tear of the rotator cuff, the Office explained that the MRI scan of February 14, 2002 showed no tear and the EMG of January 15, 2002 showed that the cervical paraspinal muscles were normal. In a July 18, 2003 letter, the Office requested additional information concerning appellant's disability status and surgery for nonwork-related conditions. Furthermore, the Office advised her that it was in receipt of her CA-7 claims for compensation for the period December 14, 2001 to July 5, 2002 and advised her of her eligibility to receive continuation of pay.

By letter dated August 6, 2003, appellant's representative advised that appellant did not proceed with the recommended surgery as she was pregnant.⁴ In addition, she explained that the employing establishment indicated that no light duty was available and provided a copy of the employing establishment's July 10, 2002 letter. Counsel contended that appellant's traumatic synovitis of the flexor tendon of the right wrist and hand, compression neuropathy of the right median nerve, carpal tunnel syndrome, impingement syndrome of the right shoulder, probable tear of the right rotator cuff and cervical strain were due to her December 14, 2001 injury.

In an August 18, 2003 duty status report, Dr. Azer diagnosed carpal tunnel syndrome and advised that it was due to keying on a keyboard at work. He indicated that appellant was totally disabled. In a September 15, 2003 report, Dr. Azer diagnosed impingement syndrome of the right shoulder and advised that she was totally disabled from September 15 to November 3, 2003. He submitted additional reports indicating that appellant was totally disabled.

On February 19, 2004 appellant filed an occupational disease claim pertaining to the conditions claimed in her December 23, 2001 traumatic injury claim.

On February 25, 2004 the Office received the first page of an October 23, 2002 report from Dr. Azer, which opined that the December 14, 2001 employment injury caused impingement syndrome of the right shoulder, right carpal tunnel syndrome and cervical strain syndrome. He also advised that the injury aggravated appellant's condition. Additionally, the Office also received copies of treatment notes dated December 19 and 27, 2001 and January 2, 2002.

In a November 17, 2003 report, received by the Office on April 13, 2004, Dr. Gary C. Dennis, a Board-certified neurosurgeon, advised that appellant was totally disabled and that her right carpal tunnel syndrome was related to her injury of December 14, 2001.

In an April 26, 2004 report, Dr. Azer advised that appellant had right shoulder pain with increasing numbness and pain in the right hand. He noted that medications or surgical procedures would be postponed as she was still breastfeeding her baby. Dr. Azer advised that

⁴ Counsel indicated that appellant's child was born on March 10, 2003.

once the surgery was performed, appellant would be able to return to light duty. In separate reports of the same date, he diagnosed impingement in the right shoulder and carpal tunnel syndrome. Dr. Azer checked the box “yes” regarding whether he believed the condition was due to the employment injury and opined that appellant was totally disabled. In a May 24, 2004 report, he advised that she had stopped breastfeeding and noted that she still had pain, numbness and weakness in the right hand, wrist and shoulder. Dr. Azer advised that the EMG studies of November 2003 showed a right carpal tunnel syndrome and advised that appellant would be scheduled for a decompression of the right carpal tunnel and excision biopsy synovial flexor tendon of the right wrist and hand. In separate reports, also dated May 24, 2004, he diagnosed rotator cuff syndrome and opined that appellant was to remain off work.

In a November 3, 2003 report, received by the Office on June 25, 2004, Dr. Ignacio noted that appellant was injured on June 29, 1999 and, since that time, had chronic and progressively increasing right shoulder pain radiating to the neck, right arm and wrist. He noted findings on a nerve conduction study and an EMG and diagnosed capsulitis of the right shoulder, right carpal tunnel syndrome, tenosynovitis of the right wrist and cervical disc syndrome. Dr. Ignacio noted that abnormal electrodiagnostic EMG findings were consistent with chronic right carpal tunnel syndrome and chronic right C5 and C6 radiculopathy.

By letter dated July 15, 2004, appellant requested reconsideration of the Office’s denial of the conditions that portion of the Office’s July 17, 2003 decision that denied her claim for traumatic synovitis of the flexor tendon of the right wrist and hand with compression neuropathy of the right median nerve, carpal tunnel syndrome, impingement of the right rotator cuff and cervical strain.

By decision dated October 13, 2004, the Office denied modification of the July 17, 2003 decision. The Office found that the medical evidence was insufficient to establish the diagnoses as related to work activities on December 14, 2001. The Office also noted that the record contained no medical explanation to describe how the conditions developed in a six-hour workday.

LEGAL PRECEDENT

When an employee claims that he or she sustained an injury in the performance of duty, the employee 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. The employee must also establish that such event, incident or exposure caused an injury. Once an employee establishes an injury in the performance of duty, he or she has the burden of proof to establish that any subsequent medical condition or disability for work which the employee claims compensation, is causally related to the accepted injury.⁵ To meet his or her burden of proof, an employee must submit a physician’s rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.⁶ Medical conclusions

⁵ See *Leon Thomas*, 52 ECAB 202 (2001).

⁶ See *Gary J. Watling*, 52 ECAB 278 (2001).

unsupported by rationale are of diminished probative value and are insufficient to establish causal relation.⁷

ANALYSIS

By decision dated July 17, 2003, the Office accepted the claim for right trapezius (shoulder) strain, right lateral epicondylitis and tendinitis of the right wrist. The Office denied her claims for right rotator cuff tear, cervical strain, traumatic synovitis of the flexor tendon of the right wrist and hand with compression neuropathy and right carpal tunnel syndrome.

In support of her claim, appellant submitted numerous reports from Dr. Azer. In a January 7, 2002 report, he described her job duties and diagnosed certain conditions. However, he did not address or describe any work-related event as occurring on December 14, 2001 as the cause of any condition not accepted by the Office. Dr. Azer also checked a box “yes” that inquired as to whether or not he believed the condition was caused or aggravated by an employment activity. In an April 26, 2004 form report, he checked a box “yes” in support of causal relationship. However, the checking of a box “yes” in a form report, without additional explanation or rationale, is insufficient to establish causal relationship.⁸ In his February 22, 2002 treatment note, Dr. Azer noted that the December 14, 2001 injury was a recurrence of appellant’s June 20, 1999 injury. However, he did not offer any other explanation and his report did not specifically address the causal relationship between her employment and her injury on December 14, 2001. Dr. Azer did not explain how these nonaccepted conditions occurred over a single workday. The Board has long held that medical opinions not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet appellant’s burden of proof.⁹ In an October 23, 2002 report, Dr. Azer advised that appellant’s June 29, 1999 injury was part of the cause of her current condition. He indicated that the combination of a cervical strain was an injury to the muscles and ligaments with partial tear in the fibers that caused radiculopathy and when associated with right carpal tunnel syndrome could cause a double crush injury. However, Dr. Azer did address or relate the conditions to an incident on December 14, 2001. In his October 23, 2002 report, Dr. Azer opined that the December 14, 2001 employment injury caused impingement syndrome of the right shoulder, right carpal tunnel syndrome and cervical strain syndrome. He also advised that the injury aggravated appellant’s condition. However, he did not provide a rationalized opinion explaining the medical processes by which specific employment activities on December 14, 2001 would cause or aggravate these conditions. His other reports did not specifically address causal relationship.

In a November 17, 2003 report, Dr. Dennis, a Board-certified neurological surgeon, advised that appellant was totally disabled and that her right carpal tunnel syndrome was related to her December 14, 2001 injury. However, he did not provide a rational or medical reasoning to explain how her carpal tunnel syndrome occurred in a single workday.

⁷ *Albert C. Brown*, 52 ECAB 152 (2000).

⁸ *Calvin E. King*, 51 ECAB 394 (2000); *Linda Thompson*, 51 ECAB 694 (2000).

⁹ *Carolyn F. Allen*, 47 ECAB 240 (1995).

Appellant also submitted other medical reports, including reports of diagnostic testing. However, these reports did not address the employment injury of December 14, 2001 as a cause of the conditions at issue. The Board finds that appellant has not submitted sufficient evidence to establish that her right rotator cuff tear, cervical strain, traumatic synovitis of the flexor tendon of the right wrist and hand with compression neuropathy and right carpal tunnel syndrome conditions were caused or related to any activities at work on December 14, 2001.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her right rotator cuff tear, cervical strain, traumatic synovitis of the flexor tendon of the right wrist and hand with compression neuropathy and right carpal tunnel syndrome are causally related to her accepted employment injuries on December 14, 2001.

ORDER

IT IS HEREBY ORDERED THAT the October 13, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 8, 2005
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board