

U.S. Department of Labor
Office of Workers' Compensation Programs

DECISION OF THE HEARING REPRESENTATIVE

In the matter of the claim for compensation under Title 5, U.S. Code 8101 et seq. of Candice Jordan, claimant; employed by U.S. Postal Service, Athens, Georgia. Case No. 06-2054789. Hearing was held on October 24, 2002, in Atlanta, Georgia.

The issue is whether the claimant's right upper extremity (RUE) medical condition is causally related to her employment.

On January 30, 2002, the claimant, then a 42-year-old letter carrier, filed a Form CA-2, Notice of Occupational Disease and Claim for Compensation, asserting that on approximately February 14, 2001 she became aware of what appeared to be tennis/golf right elbow tendonitis and/or nerve injury, causally related to her employment. On the Form CA-2, the claimant's supervisor, Keith Edgerly, indicated that effective February 14, 2002 the claimant was on limited duty with no casing or carrying mail.

In a statement submitted with the Form CA-2 the claimant indicated that at work she repetitively cased, fingered and delivered mail. The problem began as a pain in the right elbow, which she attempted to treat with over the counter medications as well as heat and cold compresses. The pain then spread to her forearm, up to her upper arm, shoulder, neck and back and then the underside of her arm up to the armpit. The medical treatment was to prescribe anti-inflammatory pain medication.

The claimant further indicated that casing involved casing letters and magazines, left hand and arm into her right hand and placing into a slot as much as 36" above her shoulder. This was done for approximately 2-1/2 to 3-1/2 hours every morning. All mail was then pulled down and placed into trays, this took approximately 40 minutes. The mail was then placed on her left in a mail tray and at each stop she had to reach across her body to finger through each piece of mail and retrieve the mail for each stop. After combining all mail for each stop she then took it from her left with her right hand, going back across the body and placing in the mailbox. This was done approximately 800 times per day. The claimant denied a prior similar problem.

In a January 14, 2002 report Dr. Stephen Schacher, a board certified specialist in internal medicine and occupational medicine, indicated that the claimant complained of RUE pain that started about 1 year ago. He noted she had been with the USPS for 2 years as of April 2002 and delivered mail. Dr. Schacher diagnosed lateral epicondylitis. In a January 14, 2002 Form CA-17 Dr. Schacher indicated that the claimant had pain in the right elbow and needed assistance with casing.

The file contains "progress notes" from an unclear medical provider. A January 17, 2002 note indicated that the claimant was claiming workers' compensation for tennis elbow. A February 15, 2002 note indicated that the claimant complained of right shoulder musculoskeletal pain and should continue on light duty.

In a January 30, 2002 sick slip, Dr. Billups Tillman, a board-certified orthopedist, indicated that the claimant should continue limited duty.

In a January 30, 2002 report an unclear medical provider, perhaps Dr. Tillman, indicated that the claimant had ulnar neuropathy of the RUE and a tennis elbow of the LUE and right cervical radiculopathy. He stated that these "could be caused or aggravated her by her repetitive work."

In a February 1, 2002 report Dr. Terry Wimpey, a board-certified neurologist, indicated that the claimant began having pain in her right arm about 1 year before. She sounded like she had tennis elbow and she began physical therapy that provided some improvement in the pain. However, more recently she began having pain in her left arm that was different, involving the muscles of the proximal arm sometimes radiating into the forearm. In addition she has numbness in her hands, particularly of the 4th and 5th digits bilaterally. She believed her problems were worsened by her job, especially sorting letters. In the last week she also developed pain in her neck and the upper portion of her back. About 6 months before she started having frequent cramps in her thighs when she would walk upstairs but this resolved. She might have some difficulty with gripping in both hands. She did not have any problems with numbness or sensory loss in her feet or legs.

Dr. Wimpey stated that the claimant smoked 2 packs of cigarettes a day. Her maternal grandfather had a stroke. She had a family history of diabetes and the claimant's father had diabetes and died of congestive heart failure. Dr. Wimpey reported his physical examination of the claimant. He diagnosed bilateral hand numbness and neck and upper back pain. He suspected that her neck and back pain might have a musculoskeletal etiology but numbness of her hands could be due to either carpal tunnel syndrome (CTS) or bilateral ulnar neuropathy. She might also have compression of the ulnar nerves of the elbows bilaterally and this "may be worsened by the repetitive motion of her work." He doubted that she had any impingement of the C8 nerve root but this could not be completely ruled out. He recommended a cervical MRI (magnetic resonance imaging) and a nerve conduction study of the bilateral upper extremities.

In a March 5, 2002 sick slip, Dr. Tillman indicated that the claimant should continue limited duty.

By letter dated April 3, 2002 the Office of Workers' Compensation Programs requested the claimant to describe the development of her claimed condition from the day it started. It asked to describe all off the job activities that required repetitive or strenuous use of her arms. It asked her to describe all previous injuries or other problems with her arms such as sprains, strains, fractures and dislocations. It asked her to state whether she had ever undergone surgery to her hand, wrist, elbow or shoulder and to state whether she had ever been treated or diagnosed for arthritis, bursitis, rotator cuff syndrome or any other condition of the upper extremity. Finally, the Office asked her to arrange for the submission of a medical report that included her "doctor's

opinion, with medical reasons on the cause of your condition. Specifically, if you doctor feels that exposure or incidents in your federal employment contributed to your condition, an explanation of how such exposure contributed should be provided."

In an April 8, 2002 statement the claimant wrote that she had not been involved in any sport-related activities and had no hobbies which required repetitive or strenuous use of her arms. She had no musical talents. She used her home computer 1-hour a week or less. Housework chores were done by a maid. She swam some in the summer. She was involved in any other employment or volunteer recreational activities. Her condition began as a pain in her right elbow first noticed about February 14, 2001. This then spread to her forearm, thumb up to her upper arm, shoulder, neck and back and then to the underside of her arm, up to her armpit. She initially treated the pain with tennis elbow braces and ice, but this did not help. The pain and weakness got so bad that she started dropping mail. That is when she informed her supervisor at work. She was taken by another supervisor to the workers' compensation doctor, Dr. Schacher, on January 14, 2000, who prescribed occupational therapy. On January 20, 2002 she began having pain in her left arm, shoulder, neck and back. The right tennis elbow of the forearm and elbow was better but her upper arms, neck, shoulder and back got worse. She also noted that she tired easily and had several bad muscle cramps in her back. Currently she had pain in her right thumb, pain in both forearms and upper arms, chest pain, pain in the back of her neck, pain in her thumb, generalized swelling on both sides of her neck, pain in her back around her shoulder blades, sudden cramps in the middle of her back, lasting about 1 to 2 minutes each, tingling in the last 2 fingers of her left and right hands, pain in her lower back and upper buttocks, daily headaches, pain and weakness of both thighs and she felt like she was going to fall and her legs gave out. On April 6, 2001 she got extremely dizzy reading the paper at lunch and this lasted 2 to 3 minutes. She denied having any prior problems such as sprains, strains, fractures and dislocations and stated she had never been diagnosed with bursitis or arthritis.

In an April 11, 2002 report Dr. Diana Moldoveanu, a board-certified internist, wrote as follows:

Ms. Candice T. Jordan became my patient on 3-13-02 when she came in with a complaint of right upper extremity and neck pain. She had been diagnosed by another MD with tennis elbow of the right arm which has presently improved. From what Candice describes her work/job involves repetitive movements with her right upper extremity, her upper torso and neck, with movements from left to right and right to left. In time these activities could contribute to her current symptoms and are partially relieved by anti-inflammatory agents and rest. Even though her tests did not (yet) reveal any structural abnormality, I feel the type of activity she is doing might contribute to her complaints.

On May 10, 2002 the Office issued a decision rejecting the claim for benefits on the grounds that the medical evidence of record was insufficient to establish that the claimant's claimed medical conditions were causally related to her employment.

By letter dated May 28, 2002 the claimant requested a hearing.

On September 12, 2002, the claimant appointed Paul Felser, Esquire, as her representative.

A hearing was held on October 24, 2002, at which the claimant was represented by Mr. Felser and testified that before beginning work for the U.S. Postal Service, she worked with computers for a number of years; that beginning April 2000 she worked for the U.S. Postal Service as a letter carrier; that in this job she used her RUE repetitively to case and deliver mail; that since April 2000 she has had no second jobs and engaged in no repetitive or forceful activity of the RUE; that she had never sustained an off-the-job injury to her RUE or cervical spine; that she first developed problems with her RUE in January 2001; that she first sought medical attention from a physician in January 2002; and that since January 2002 her physicians had recommended light or limited duty, essentially to the effect that she should engage in no repetitive activity with her RUE. I asked the claimant to describe in detail her repetitive activity with her RUE since January 2002, and she indicated she could not do so, except that for the last two or three months, it had increased, and in the last two or three months she cased auxiliary routes 3-5 hours a day, using both her RUE and her left upper extremity (LUE), using her RUE about 60% of the time and her LUE about 40% of the time, and switching between the two upper extremities about every 10 minutes and taking some breaks. She named all the physicians she had seen for her RUE, and I gave her 30 days to submit the complete records from these physicians, plus reports of any MRI's, CT scans, x-rays and electrodiagnostic studies.

Exhibit one of the hearing included the official superior's report of a form CA-1 completed on January 14, 2002, indicating that the claimant could not state an exact date of injury, so she appeared to be claiming an occupational disease rather than a traumatic injury. Exhibit one also included a January 16, 2002 form PS-1769 report of Keith Edgerly, indicating that on January 14, 2002 the claimant told him that she had pain in both arms and elbows, and felt it was due to repetitive motion required to perform the daily duties of carrier, and that the claimant had been taken to St. Mary's Industrial Medicine Clinic, where tendonitis was diagnosed and that the claimant had been given full time limited duty.

Exhibit two of the hearing is an April 10, 2002 report of Dr. Schacher, indicating he first saw the claimant on January 14, 2002, complaining of a hurting arm, and he diagnosed lateral epicondylitis and stated she needed assistance with casing and delivering of mail.

Exhibit three of the hearing is an October 14, 2002 report of Dr. Moldoveanu as follows:

Mrs. Candice C. Jordan has been under my care since March of 2002 when she was diagnosed with fibromyalgia. Her symptoms started while at work (she works at the post office and her job consists of repetitive activities involving the upper extremities and torso). Her condition seemed to have improved while she was off and on weekends when no similar activities (repetitive) were involved. It is more likely that the kind of activities involved might be the culprit of her symptoms. She had complex medical evaluation such as MRI, nerve conduction studies, etc as well as subspecialist evaluations (rheumatology, pain specialist, and psychiatry) for a multidisciplinary approach of her condition.

Exhibit four of the hearing consists of report by Dr. Robert Marshburn, a board-certified family practitioner. In a July 29, 2002 note Dr. Marshburn stated the claimant's "Tennis elbow was

caused by repetitive movement at work. First seen for that on 1/17/02." In an October 15, 2002 report Dr. Marshburn wrote,

Ms. Candice C. Jordan first came to see me in January of 20002 complaining of pain in her arm and elbow. The initial diagnosis was tennis elbow. Ms. Jordan explained that as a postal worker her job requires many repetitive duties, such as casing mail and mail delivery. She had been trying self medication for her condition prior to seeing me. I prescribed an anti-inflammatory and an elbow restraint. Ms. Jordan's condition continued to deteriorate over time ;and I recommended that she seek counsel of a specialist.

Exhibit five of the hearing is an October 3, 2002 note of Dr. Moldoveanu that the claimant needed to be on light duty up to November 1, 2002.

After the hearing, the following was received:

In a February 11, 2002 report Dr. Jerry South, a radiologist indicated an MRI of the claimant's cervical spine showed minimal disc bulging at C5-6 and C6-7 with no nerve root impingement or significant canal stenosis, and no abnormality involving the cervical cord.

In a February 12, 2002 report Dr. C. Van Morris, a neurologist, indicated the claimant underwent an essentially normal NCV study of both upper extremities.

In an April 27, 2002 report Dr. Michael Luckett indicated that the claimant had an unremarkable lumbar spine MRI.

In a May 17, 2002 report Dr. Jeffery Lawson indicated he was seeing the claimant at the request of Dr. Moldoveanu. He noted the claimant had a history of tennis elbow starting in 2001. He stated she underwent an MRI that showed minimal bulging at C5-6 and C6-7 and she had nerve conduction studies that did not show a persistent entrapment syndrome. He said she had serological tests that showed nothing but increasing cholesterol. He reported that at the Post Office she performed repetitive motions with her right hand while filing mail and moving packages. He stated an MRI of the lumbar spine showed no lumbar disc disease. He reported his physical examination of the claimant. He diagnosed fibromyalgia and suggested a job change "as the stress of working in the Post Office may be exacerbating her fibromyalgia."

In an October 29, 2002 handwritten report Dr. Fareha Rahim indicated the claimant had a history of right tennis elbow related to her work of casing mail and using her right hand in a repetitive manner. Dr. Rahim noted the claimant had been "labeled" with the diagnosis of fibromyalgia but Dr. Rabin felt the claimant's diagnosis was myofascial syndrome of repetitive right hand/elbow use injury.

In a November 4, 2002 report Dr. D. Janene Holladay, a board certified pain medicine specialist, indicated she first saw the claimant on May 21, 2002 upon referral from Dr. Moldoveanu, and the claimant complained of pain in her bilateral arms, low back and

~~Physical exam to her knees.~~ She further indicated that the claimant had worked 3 years for the U.S. Postal Service, sorting, pulling, carrying and delivering mail, and her first pain started 2 years ago. She diagnosed fibromyalgia, and stated "At this time I believe her fibromyalgia is a result of the continued wear and tear on her right arm from the lateral epicondylitis or tennis elbow that was diagnosed with Dr. Schacher. She also has the diagnosis of depression which is the result of chronic pain, and inability to perform the duties of her job." She recommended that the claimant do light work with no lifting, pushing, pulling or carry of over 10 pounds and no usage of her upper extremities in a repetitive manner.

In a November 18, 2002 report Dr. Rahim indicated the claimant had myofascial syndrome as "a direct result of repetitive right hand/elbow use injury" and she should do light work not involving repetitive motion.

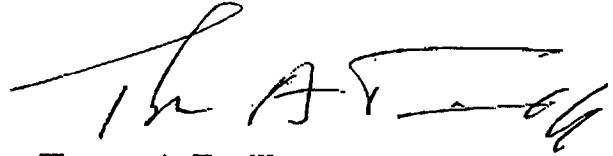
I find that the case should be remanded for further development of the medical evidence to determine if the claimant has a condition of her RUE causally related to her employment.

The Federal (FECA) Procedure Manual, chapter 2-806, indicates that if a claimant for an occupational disease has established the existence of one or more employment factors and presents unrationalized medical opinion supporting a causal relationship between the claimed medical condition and employment factors, the Office may assist the claimant in obtaining rationalized medical opinion, by preparing a Statement of Accepted Facts (SOAF) detailing the relevant factors of employment and either, at the Office's option, referring the SOAF to one of the claimant's physicians along with a request for a rationalized opinion on causal relationship, or referring the SOAF, copies of medical records and the claimant to a new physician for a rationalized opinion.

In the present case the claimant has established that she did repetitive activities at work with her RUE. She has presented medical opinion supporting a causal relationship between her RUE condition and her employment. However, the medical opinion is not completely rationalized because there appears to be some difference of opinion concerning the exact diagnosis, many tests appear to be negative, and no physician has explained a pathophysiological process whereby specific factors of employment caused or contributed to a specific medical condition of the RUE. Under these circumstances it behooves the Office to further develop the medical evidence as stated in the preceding paragraph.

Based on the foregoing, the May 10, 2002 decision of the Office is set aside. The case record is returned to the District Office for it to take further action as stated above, to be followed by any other action it deems necessary and issuance of a *de novo* decision on the merits of the claim.

DATED: JAN -6 2003
WASHINGTON, D.C.

A handwritten signature in black ink, appearing to read "Th A Terrill". The signature is fluid and cursive, with a long horizontal stroke at the end.

Thomas A. Terrill
Hearing Representative
For
Director, Office of Workers'
Compensation Programs