

U.S. DEPARTMENT OF LABOR

FILE NUMBER 022700795

DEC - 1 2015

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 50
LONDON, KY 40742-8300
Phone: (202) 693-0045

Date of Injury: 03/24/2015

Employee: [REDACTED]

[REDACTED]

Dear [REDACTED]

This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review.

A hearing was held on 10/07/2015. Based upon that hearing, it has been determined that the decision of the District Office should be reversed as outlined in the attached decision.

Your case file has been returned to the New York City District Office. You may contact that office by writing to our Central Mail Room at the following address:

US DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 2 NYC
LONDON, KY 40742-8300

Sincerely,



Alan Stein
Hearing Representative

DEPARTMENT OF JUSTICE
BUREAU OF PRISONS-ALL OTHERS
MCC NEW YORK
150 PARK ROW
NEW YORK, NY 10007

TYRONE COVINGTON
MCC AFGE
150 PARK ROW
NEW YORK, NY 10007

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 [REDACTED], Claimant; Employed by the U.S. Justice Department, Bureau of Prisons, Metropolitan Correctional Center, New York, New York; Claim number 022700795. Hearing was held on October 7, 2015 in New York City.

The issue for determination is whether the claimant sustained a compensable injury in connection with her federal employment.

The claimant, born August 31, 1983, is employed as a corrections officer with the Bureau of Prisons in New York. On March 26, 2015 the claimant filed a timely Notice of Occupational Disease and Claim for Compensation, claiming that as of March 24, 2015 she developed a bilateral wrist condition due to repetitive turning of keys in cell locks and opening food slots in cell doors. The claimant did not stop work. The employing agency did not challenge the claim.

On April 24, 2015 the Office notified the claimant of the factual and medical evidence needed to substantiate her claim. The Office requested a detailed description of work factors.

The Office received copies of medical records. A report of bilateral wrist x-ray dated March 30, 2015 stated an impression of unremarkable. In a report of March 30, 2015 Gregory J. Galano, MD, an orthopedist, noted findings of positive Tinel's test bilaterally and a history of turning keys and opening cells repeatedly at work. Dr. Galano diagnosed bilateral carpal tunnel syndrome. In a report of April 24, 2015 Dr. Galano repeated the findings and diagnosis as stated in his March 30, 2015 report. Dr. Galano opined that the diagnosed condition was consistent with objective findings and work history, and was a result of work activities. In a report of June 8, 2015 Dr. Galano recommended EMG/NCV tests.

On June 23, 2015 the Office notified the claimant that her claim was denied on the grounds that the evidence of record did not establish fact of injury. The Office found the claimant did not describe in detail the work factors which she believed to have caused the claimed condition. The claimant disagreed with the decision and requested an oral hearing.

Accordingly, said hearing was scheduled and held on October 7, 2015 in New York City. Tyrone Covington of the AFGE represented the claimant. Based upon the hearing testimony, together with the written evidence of record, I find that the Office's decision of June 23, 2015 should be reversed.

At the hearing the claimant testified that at work she carried a key set of two pounds weight. Her daily work duties included opening and closing multiple locks as well as opening the food slots in cell doors. The claimant testified she also pushed a cart loaded with food trays to bring meals to prisoners. The claimant testified she did not stop work due to the claimed injury, and she continued to work full duty. The claimant testified she did not have EMG/NCV tests because the claim was in a denied status.

Post hearing the record was held open for 30 days for the submission of additional written evidence. A copy of the hearing transcript was provided to the employing agency and 20 days allowed for the submission of written comments. No comments or additional written evidence were received.

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.¹

A claim for carpal tunnel syndrome must be supported by medical evidence showing that such condition exists, such as a positive Tinel's or Phalen's sign, or results of EMG and NCV testing.²


The Office correctly determined that as of June 23, 2015 the record did not establish fact of injury. Subsequently through her testimony the claimant described daily work duties involving repetitive use of the hands/wrists to open cell slots and use keys. In turn, the medical record shows positive Tinel's sign bilaterally, and Dr. Galano affirmatively attributed carpal tunnel syndrome to the work factors cited by the claimant. Consequently the claim should be accepted for bilateral carpal tunnel syndrome.

¹ *R.H.*, 59 ECAB 382 (2008)

² Federal (FECA) Procedure Manual, Part 3—Medical, *Specific Conditions*, Ch. 3-600-8(c) (September 1995)

For the reasons set forth above the Office's decision of June 23, 2015 is hereby REVERSED, and the case file is returned to the district office for actions consistent with this decision.

Dated: DEC - 1 2015
Washington, D.C.



ALAN STEIN
Hearing Representative
for
Director, Office of Workers'
Compensation Programs