

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ANNE E. WILLIAMS and DEPARTMENT OF VETERANS AFFAIRS,  
MEDICAL CENTER, Pittsburgh, Pa.

*Docket No. 96-1740; Submitted on the Record;  
Issued June 16, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant established that she had any disability causally related to factors of employment after February 21, 1996.

The Board has duly reviewed the case record and concludes that appellant did not meet her burden of proof.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he or she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he or she cannot perform such light duty. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>1</sup>

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between his or her claimed condition and employment.<sup>2</sup> Causal relationship is a medical issue<sup>3</sup> and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence, which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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

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<sup>1</sup> *Gus N. Rodes*, 46 ECAB 518 (1995); *Cynthia M. Judd*, 42 ECAB 246 (1990); *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>2</sup> *Donald W. Long*, 41 ECAB 142 (1989).

<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

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.<sup>4</sup> Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>5</sup>

The facts in this case indicate that on January 25, 1995 appellant, then a 54-year-old file clerk-records expediter, filed an occupational disease claim, alleging that employment factors caused right carpal tunnel syndrome. After developing the factual evidence, the Office of Workers' Compensation Programs accepted the claim for right carpal tunnel syndrome and approved surgical release.<sup>6</sup> Appellant stopped work on April 5, 1995 and returned to light duty on May 30, 1995. On July 21, 1995 she filed a recurrence claim, alleging that she had to stop work on July 12, 1995 due to pain and swelling in her right hand. She returned to light duty on July 19, 1995. On February 2, 1996 she filed a recurrence claim, stating that on that day her right thumb became rigid, that she had to stop work due to persistent pain and suffered from severe headaches. The record indicates that appellant received appropriate compensation to February 7, 1996. She returned to work on February 21, 1996.

By decision dated March 4, 1996, the Office denied the claim on the grounds that the evidence of record failed to establish that the claimed disability was causally related to the prior employment injury. In the attached memorandum, the Office noted that both appellant's treating Board-certified orthopedic surgeon, Dr. William C. Hagberg and Dr. Victoria M. Langa, a Board-certified orthopedic surgeon, who had provided a second-opinion evaluation for the Office, had reviewed and approved the job description for her limited-duty position and noted that she had returned to full duty on February 21, 1996. The Office further noted that it was not rendering a decision regarding appellant's absence from work from February 6 to February 21, 1996.<sup>7</sup> Medical benefits were not terminated.

The relevant evidence includes an August 23, 1995 report, in which Dr. Hagburg, who had submitted reports beginning in January 1995 and performed a right carpal tunnel release on April 5, 1995, advised that appellant could "probably" return to regular duty although she was concerned that stooping and picking up files would aggravate her back condition. By report dated October 3, 1995, he disapproved the file clerk position as being "too repetitive." Dr. Langa provided a second-opinion evaluation for the Office dated December 5, 1995, in which she diagnosed status post right carpal tunnel release with postoperative neuroma of the palmar cutaneous branch of the median nerve, degenerative joint disease of the right thumb, possible mild deQuervain's tendinitis of the right wrist, right trigger thumb (tenosynovitis) by history and pain dysfunction. She advised that appellant had "genuine problems" with her right

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<sup>4</sup> Gary L. Fowler, 45 ECAB 365 (1994); Victor J. Woodhams, 41 ECAB 345 (1989).

<sup>5</sup> Minnie L. Bryson, 44 ECAB 713 (1993); Froilan Negron Marrero, 33 ECAB 796 (1982).

<sup>6</sup> The record also indicates that appellant also sustained an employment-related back injury.

<sup>7</sup> The Board notes that in her recurrence claim filed on February 2, 1996, appellant alleged that work activities caused thumb and headache problems. The Office has not developed this aspect of the claim.

wrist and hand but was “exaggerating what problems she has.” Regarding work, the doctor stated:

“[Appellant] advised me in the office today that she, at the present time, is performing her usual job activities without restriction, however, I have also been informed that this is not the case and that she is actually performing a light duty version of her usual duties as a file expediter. It is my overall opinion that [appellant] may continue to perform the job activities that she is presently performing. If, in fact, it is her regular job that she is performing, then, in my opinion, she may continue performing her regular job. If, in fact, it is a light duty version of her regular job she is performing, then, in my opinion, she may continue with those activities.

I have also had the opportunity to review the two submitted job descriptions. The first entitled File Room Expediter/light-duty assignment and the second entitled File Clerk. It is my opinion that [appellant] is fully capable of performing the File Room Expediter/light-duty assignment position without restrictions. With respect to the position entitled File Clerk (which is apparently [appellant's] regular job) I have several comments to make. The first is that this job description does not indicate the amount of lifting that is required and, therefore, I am unable to specifically comment whether this is a position that is appropriate for [appellant] at the present time. The second comment is that this position does appear to be more repetitive with respect to the use of the hands and, therefore, in my opinion, less appropriate for [appellant] at the present time.”

On January 15, 1996 the Office submitted a light duty file clerk/records expediter job description to Dr. Hagburg, indicating that it involved sorting and arranging loose file material and did not require “any real lifting.” In a February 2, 1996 report, Dr. Hagburg stated:

“I have reviewed the enclosed job description ... and believe that she could perform this position. My only concern is that it does state that she is required to stoop occasionally. With her history of back problems, I would suggest that this job description be reviewed by Dr. Laura Fleck at the AGH Back Institute to be sure that there is no problem with regards to her back condition.”

By report dated February 15, 1996, he released her to the file clerk/records expediter position.

The Board finds that, as the medical evidence of record establishes that appellant had been released to duty on February 21, 1996, she failed to establish the requisite causal relationship

between any continuing disability and her prior employment injury,<sup>8</sup> and the Office properly denied her claim.<sup>9</sup>

The decision of the Office of Workers' Compensation Programs dated March 6, 1996 is hereby affirmed.

Dated, Washington, D.C.  
June 16, 1998

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>8</sup> See *Mary J. Briggs*, *supra* note 3.

<sup>9</sup> The Board notes that appellant submitted evidence to the Office subsequent to the Office's March 4, 1996 decision. The Board cannot consider this evidence as the Board's review of the case is limited to the evidence of record, which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).