

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GERALDINE DeCOSTA and U.S. POSTAL SERVICE,
POST OFFICE, Brockton, Mass.

*Docket No. 97-2120; Submitted on the Record;
Issued June 28, 1999*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established a recurrence of disability commencing March 18, 1996 causally related to her employment injuries.

In the present case, appellant filed a claim on June 3, 1992, alleging that she sustained injury to her left arm causally related to repetitive data entry activities in the performance of duty. The Office accepted the claim for left carpal tunnel syndrome and left lateral epicondylitis of the elbow. On July 26, 1994 appellant filed a notice of recurrence of disability (Form CA-2a) commencing in April 1994. Appellant stated by letter dated August 29, 1994 that she had been using her right arm for data entry, in order to let her left arm rest, and she had developed the same symptoms in her right arm. The Office accepted the claim for right carpal tunnel syndrome and right lateral epicondylitis.

In a Form CA-2a dated March 21, 1996, appellant claimed recurrence of disability. She indicated that the date of the recurrence was February 1996 and that she had stopped working on March 18, 1996. Appellant stated that she had recurring pain in both elbows and hands and that performing her job had resulted in a worsening of her condition.

By decision dated June 11, 1996, the Office denied appellant's claim for a recurrence of disability on or after February 1996. A hearing before an Office hearing representative was held on March 24, 1997 and by decision dated May 16, 1997, the hearing representative affirmed the June 11, 1996 Office decision.

The Board has reviewed the record and finds that appellant has not established a recurrence of disability in this case.

A person who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which she claims compensation is causally related to the accepted

injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.¹

In this case an attending physician, Dr. Henry M. Toczykowski, an orthopedic surgeon, stated in a March 18, 1996 report that appellant had been under his care for problems related to right shoulder, left elbow and right elbow, and that appellant was disabled. Dr. Toczykowski does not provide further detail regarding a bilateral elbow condition, nor does he provide a reasoned opinion relating any disability for work to the accepted employment injuries. With regard to a right shoulder condition, the Board notes that a shoulder condition has not been accepted as employment related. If appellant is claiming that her employment activities after the filing of her claim on June 3, 1992 contributed to a right shoulder condition, this would constitute a new injury claim.²

In a report dated April 22, 1996, Dr. Toczykowski indicated that appellant was scheduled for surgery in June 1996 and in a June 17, 1996 report he stated that appellant was disabled. In a report dated October 4, 1996, Dr. Toczykowski stated that appellant's history of injuries went back to 1990, where repetitive work caused left elbow and left wrist injury, with appellant developing problems with her right elbow in 1993 due to repetitive work. Dr. Toczykowski further stated that in October 1995, appellant began to develop problems with her right shoulder, "again as a result of work and the fact that she was impaired as a result of the injuries to her left elbow and wrist and right elbow." Dr. Toczykowski indicated that appellant had undergone shoulder surgery in June 1996 and concluded that "over dependent and repetitive nature of her job and her continuing work effort caused the right shoulder impingement and rotator cuff problems of her right shoulder."

As noted above, if appellant is claiming that continuing repetitive activities at work contributed to a right shoulder condition, this would be a new claim. The issue before the Board is whether appellant has established a recurrence of disability commencing on or after February, 1996, causally related to her accepted employment injuries. Dr. Toczykowski did not provide an opinion relating any specific period of disability to the accepted employment injuries. Appellant has not met her burden of proof and therefore the Office properly denied the claim for a recurrence of disability.

¹ *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

² A recurrence of disability includes a work stoppage caused by a spontaneous material change in the employment-related condition without an intervening injury. If the disability results from new exposure to work factors, an appropriate new claim should be filed; see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (January 1995).

The decision of the Office of Workers' Compensation Programs dated May 16, 1997 is affirmed.

Dated, Washington, D.C.
June 28, 1999

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member