

U. S. DEPARTMENT OF LABOR

Employees; Compensation Appeals Board

In the Matter of ANTONIA GENZALE and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Stoneham, Mass.

*Docket No. 97-468; Submitted on the Record;
Issued March 5, 1999*

DECISION and ORDER

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

The issue is whether appellant has established a recurrence of disability commencing January 13, 1994.

In the present case, appellant filed a claim on July 11, 1991 alleging that she sustained tendinitis of the right arm and wrist causally related to typing on a computer keyboard during her federal employment. The Office of Workers' Compensation Programs accepted the claim for right arm tendinitis. Appellant had indicated on the claim form that she became aware of the condition on March 10, 1991, although it does not appear that she stopped working. The employing establishment indicated on the reverse of the claim form that "to the extent possible" appellant's computer duties had been reduced, but the record does indicate that appellant continued to work and use the computer.

On February 7, 1994 appellant filed a notice for recurrence of disability (Form CA-2a). Appellant reported the date of the recurrence as January 13, 1994, and that she stopped working on January 20, 1994.¹ By decision dated April 18, 1994, the Office denied appellant's claim for a recurrence of disability commencing January 13, 1994. By decisions dated April 22, 1995 and July 9, 1996, the Office denied modification of the prior decision.

The Board has reviewed the record and finds that appellant has not established a recurrence of disability commencing January 13, 1994.

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

¹ The Board notes that appellant had also filed an occupational disease claim on January 27, 1994, using an earlier version of an occupational claim form (CA-4).

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.²

The issue on appeal in this case is limited to the claim for a recurrence of disability, since the Office decisions being reviewed addressed only a recurrence of disability. 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.³ In this case, appellant has submitted medical evidence regarding a continuing arm condition, but the discussion of causal relationship refers to the continuing employment duties, rather than a spontaneous recurrence of the accepted employment injury. In a treatment note dated January 13, 1994, Dr. Edward Frank, a family practitioner, notes that appellant has performed repetitive keyboard activities for the prior six years, and diagnosed neuropathy of both arms.⁴ He stated that he was “convinced that it was job-related (repetitive keyboard work).” Dr. Frank also completed a form report (CA-20) on January 27, 1994, noting a six-year history of increasing pain in wrist, elbows and right shoulder “initiated and aggravated by keyboard work.” The Board notes that neuropathy is not the accepted condition and to the extent that Dr. Frank relates the condition to work, he implicates continuing employment duties, rather than a spontaneous recurrence of disability.

In a March 29, 1996 report, Dr. Jeffrey S. Shapiro, a psychiatrist, opined that appellant’s progressive neuropathy was directly related to her federal employment. He noted appellant’s history of working since 1988 with extensive keyboard use and stated conditions diagnosed as tendinitis, progressive neuropathy and repetitive stress syndrome were consistent with overuse of the keyboard and the progression of symptoms related by appellant. This report also would support a new injury causally related to appellant’s continuing employment duties through 1994. The issue on appeal, however, is limited to a recurrence of disability and the medical evidence does not establish a recurrence of disability commencing January 13, 1994 causally related to the accepted employment injury.

The Board notes that the record contains a claim for a new occupational injury, filed on January 27, 1994 and relevant medical evidence with respect to a new occupational injury. If the Office has not already done so, they should develop the record on the new occupational claim and issue an appropriate decision.

² *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

³ See Federal (FECA) Procedure Manual, Part 1 -- Claims, *Recurrences* (Chapter 2.1500.3) (January 1995).

⁴ The record indicates that appellant had worked at the employing establishment since 1988.

The decision of the Office of Workers' Compensation Programs dated July 9, 1996 is affirmed.

Dated, Washington, D.C.
March 5, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member