

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ARDERA L. JACKSON and U.S. POSTAL SERVICE,
NORTH TEXAS MAIL PROCESSING CENTER, Coppell, TX

*Docket No. 02-656; Submitted on the Record;
Issued September 4, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability on and after February 21, 2000 due to her accepted June 21, 1994 employment injury.

On June 21, 1994 appellant, then a 31-year-old mail processor, filed a traumatic injury claim (Form CA-1), alleging that she injured her back when she pulled a tray of mail. The Office of Workers' Compensation Programs accepted the claim for a cervical strain. Appellant returned to limited-duty work on July 6, 1994.

On November 14, 1994 appellant filed a claim for a recurrence of disability starting November 9, 1994, which the Office denied on February 14, 1995.¹

On February 24, 2000 appellant filed a notice of recurrence of disability claim beginning February 21, 2000 due to her accepted June 21, 1994 employment injury.

In a March 24, 2000 disability certificate, Dr. T.J. Ballom, an attending osteopath, concluded that appellant was totally disabled for the period February 24 through March 29, 2000. The physician released appellant to return to work on March 29, 2000 with restrictions on no lifting over 10 pounds.

In a May 10, 2000 disability certificate, Dr. Ballom concluded that appellant was totally disabled for the period April 21 through May 17, 2000.

Dr. Abe L. Adedokun, an attending Board-certified physiatrist, diagnosed fibromyalgia and released appellant to limited duty after May 30, 2000 in a May 16, 2000 work ability report.

¹ On June 10, 1995 appellant filed a claim for a recurrence of disability due to her June 21, 1994 employment injury. By letter dated June 26, 1995, the Office informed appellant that a Form CA-2a was not necessary and advised her to follow the appeal rights noted in her February 14, 1995 decision.

In a report dated May 16, 2000, Dr. Adedokun based upon a physical examination and employment injury history, diagnosed hypertension, degenerative joint disease, myofascial pain syndrome, fibromyalgia and history of migraines.

In a May 30, 2000 work ability report, Dr. Adedokun diagnosed neck pain, myofascial pain syndrome, migraines and hypertension. He concluded that appellant could return to regular duty on June 1, 2000 as well as indicating that she could only work 4 hours per day for a total of 20 hours per week.

Dr. Adedokun, in a June 7, 2000 work ability report, diagnosed neck pain, myofascial pain syndrome, migraines and hypertension. He opined that appellant could returned to limited-duty work 4 hours per day for a total of 20 hours per week on June 12, 2000.

In a November 7, 2000 report, Dr. Adedokun diagnosed work-related neck injury, myofascial pain syndrome and somatic dysfunction of the upper thoracic, cervical and bilateral shoulder regions.

In a letter of December 13, 2000, the Office advised appellant that more information was needed concerning her recurrence of disability claim of February 24, 2000. The Office advised that a statement was required concerning appellant's description of duties on return to work following the original injury, a description of her physical condition from her return to work to the present; a description of any other illness or injuries during this period; and an explanation of why she believed her current condition was related to the original injury. The Office further advised that medical records, including clinical notes, of all treatment received for her neck condition since the original injury along with a narrative medical report from a physician with supporting explanation as to the causal relationship between her current disability/condition and the original injury must also be provided. Appellant was provided 30 days within which to submit the necessary medical information.

By decision dated January 31, 2000, the Office found that the evidence failed to establish a causal relationship between appellant's June 21, 1994 employment injury and the claimed recurrence of disability on and after February 21, 2000.

The Board finds that the evidence fails to establish that appellant sustained a recurrence of disability on February 24, 2000 as a result of her June 21, 1994 employment injury.

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a limited or light-duty position or the medical evidence of record establishes that she can perform the duties of 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 she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the limited-duty requirements.²

² *Barry C. Peterson*, 52 ECAB ____ (Docket No. 98-2547, issued October 16, 2000); *Carlos A. Marrero*, 50 ECAB 117 (1998); *Terry R. Hedman*, 38 ECAB 222 (1986).

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between her recurrence of disability and her June 24, 1994 employment injury.³ This burden includes the necessity of furnishing 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 employment factors and supports that conclusion with sound medical reasoning.⁴

In this case, appellant has not shown a change in the nature and extent of her injury-related condition or of the light-duty requirements. The record shows that, following the June 21, 1994 employment injury, appellant returned to light-duty work on July 6, 1994. The record does not establish, nor does appellant allege, that the claimed recurrence of total disability was caused by a change in the nature or extent of her light-duty job requirements. Further, appellant has not submitted sufficient medical evidence establishing that the accepted conditions have materially changed or worsened since her return to work on July 6, 1994.

The only medical evidence of record that addressed appellant's current disability were disability certificates dated March 24 and May 10, 2000 by Dr. Ballom and work ability reports dated May 16, May 30 and June 7, 2000 and reports dated May 16 and November 7, 2000 by Dr. Adedokun. In his reports, Dr. Adedokun diagnosed hypertension, degenerative joint disease, myofascial pain syndrome, fibromyalgia and history of migraines. Dr. Adedokun failed to provide a causation finding in any of his reports and, therefore, these reports are of little probative value.⁵ Moreover, the Office has not accepted the conditions of hypertension, degenerative joint disease, myofascial pain syndrome, fibromyalgia and history of migraines. For these reasons, Dr. Adedokun's reports are not relevant to the issue of a recurrence of disability.⁶

Dr. Ballom in neither his March 24 nor May 24, 2000 disability certificates provided a diagnosis or an opinion as to the cause of appellant's disability. He opined that appellant was totally disabled for the period February 24 through May 29, 2000 and April 21 through May 17, 2000. His disability certificates, however, failed to discuss whether or how appellant's condition and any resulting disability were caused by appellant's injury of June 21, 1994.⁷ Thus, Dr. Ballom's disability certificates are irrelevant to the issue of a recurrence of disability.

As appellant has not submitted rationalized medical evidence supporting a causal relationship between her accepted employment injury and a recurrence of disability on February 24, 2000, she has failed to meet her burden of proof.

³ *Carmen Gould*, 50 ECAB 504 (1999); *Lourdes Davila*, 45 ECAB 139, 142 (1993); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

⁴ *Alfredo Rodriguez*, 47 ECAB 437, 441 (1996); *Louise G. Malloy*, 45 ECAB 613 (1994).

⁵ *Dennis M. Mascarenas*, 49 ECAB 215 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

⁶ See *Barbara J. Williams*, 40 ECAB 649, 657 (1989) (medical reports that failed to address the issue of recurrence of disability causally related to the initial work injury found to be irrelevant).

⁷ *Daniel Deparini*, 44 ECAB 657 (1993).

The January 31, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.⁸

Dated, Washington, DC
September 4, 2002

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁸ The Board notes that appellant submitted additional evidence subsequent to January 31, 2001 Office decision. The Board cannot consider this evidence, however, as its 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).