

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHELLE R. JOHNSON and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Detroit, MI

*Docket No. 03-1430; Submitted on the Record;
Issued August 12, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established a recurrence of disability commencing February 27, 2002.

Appellant filed a notice of occupational disease and claim for compensation (Form CA-2) on July 17, 2000 alleging that she sustained carpal tunnel syndrome causally related to her federal employment as a distribution clerk. The Office of Workers' Compensation Programs accepted the claim for bilateral carpal tunnel syndrome. Appellant underwent a left carpal tunnel release on July 5, 2001 and a right carpal tunnel release on August 27, 2001. She returned to her regular duties on December 19, 2001.

On March 5, 2002 appellant filed a notice of recurrence of disability (Form CA-2a) indicating that she had stopped working as of February 27, 2002. Appellant indicated that she returned to work on March 4, 2002.

In a decision dated May 20, 2002, the Office denied the claim for a recurrence of disability from February 27 through March 3, 2002. By decision dated July 9, 2002, appellant received a schedule award for an eight percent permanent impairment to each upper extremity.¹

On November 19, 2002 a hearing was held before an Office hearing representative on the recurrence of disability denial. By decision dated February 12, 2003, the hearing representative affirmed the May 20, 2002 decision.

The Board finds that appellant has not established a recurrence of disability commencing February 27, 2002.

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

¹ Appellant did not request review of this decision.

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.²

The record indicates that appellant's attending physician, Dr. Mark D. Mackey, an orthopedic surgeon, treated appellant on February 26, 2002. In a treatment note of that date, he indicated that appellant was not having pain, but appellant did report weakness in grip strength. Dr. Mackey provided results on examination, without offering an opinion on disability for work. In a report dated December 16, 2002, he noted that appellant underwent surgeries in July and August 2001; he noted that she went off restrictions in December 2001, "but by the end of February 2002, it had become clear that unrestricted work was causing worsening of pain in both wrists. She was thus returned to restrictions." Dr. Mackey did not specifically address disability for the period February 27 to March 3, 2002, or offer an opinion that appellant was totally disabled. The Board notes that Dr. Mackey implicated appellant's work duties from December 2001 as aggravating her condition. This would be relevant to a new claim for injury, rather than a recurrence of disability.³

It is appellant's burden of proof to submit the necessary medical evidence to establish a claim for a recurrence of disability. The record does not contain a medical report providing a reasoned medical opinion that appellant sustained a recurrence of total disability for the period February 27 to March 3, 2002. The Board accordingly finds that appellant did not meet her burden of proof and the Office properly denied the claim.

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

³ 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 (May 1997).

The decision of the Office of Workers' Compensation Programs dated May 20, 2002 is affirmed.

Dated, Washington, DC
August 12, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member