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D.W., Appellant)	
)	
and)	Docket No. 08-314
)	Issued: November 5, 2008
U.S. POSTAL SERVICE, POST OFFICE,)	
St. Louis, MO, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

On November 13, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated December 19, 2006. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant has established a recurrence of disability commencing January 13, 2004.

On March 16, 2000 appellant, then a 40-year-old clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained carpal tunnel syndrome as a result of her federal employment. The Office accepted the claim for right carpal tunnel syndrome and right middle trigger finger.¹ While appellant's subsequent work history is not clear from the record, she did

¹ Appellant also has a claim for a shoulder injury, OWCP File No. xxxxxx814.

accept a July 10, 2003 light-duty job offer that required no work with the right hand. A September 6, 2003 light-duty job offer indicated that she was limited to using only her left arm. On January 12, 2004 appellant filed a claim for compensation (Form CA-7) for the period November 28, 2003 to January 10, 2004. The record indicates that she underwent a right carpal tunnel release and trigger finger release on November 28, 2003. An employing establishment payroll form dated January 22, 2004 showed appellant worked on January 12, 2004, but did not provide information for subsequent dates.

On February 7, 2006 appellant filed a notice of recurrence of disability (Form CA-2a). The form identified the date of the recurrence as January 13, 2004. Appellant stated that her hand was never the same after surgery. The reverse of the claim form reported that she returned to preinjury duty status at the end of February 2004.

Appellant was treated by Dr. Martin Boyer, an orthopedic surgeon, on January 13, 2004. Dr. Boyer stated that appellant had scar tenderness in the area of the carpal tunnel incision. He stated that she needed therapy for desensitizing the scar area. In a form report of that date, Dr. Boyer stated that appellant could return to work with no use of the right upper extremity. On February 24, 2004 he completed a form report indicating that appellant could return to full duty March 1, 2004.

In reports dated May 24 and June 7, 2005, Dr. Boyer indicated that appellant could work with no use of the injured hand. In form reports dated December 5, 2005 and February 3, 2006, he indicated that appellant was restricted to two pounds lifting with the right hand.

By decision dated March 20, 2006, the Office denied the claim for a recurrence of disability. It found that the factual and medical evidence did not establish the claimed recurrence resulted from the accepted work injury.

Appellant requested reconsideration and submitted additional evidence. In a report dated March 6, 2006, Dr. Boyer stated that magnetic resonance imaging (MRI) scan results showed a heterotopic ossification along the volar radial aspect of the right wrist.

By decision dated July 26, 2006, the Office reviewed the case on its merits and denied modification of the March 20, 2006 decision.

Appellant again requested reconsideration and submitted an August 29, 2006 report from Dr. Boyer, who noted the MRI scan findings and stated, "All of these conditions in [appellant's] hand and wrist are related to one another insofar as they are all caused and exacerbated by her employment. I am really not sure how I could be more specific about this."

By decision dated December 19, 2006, the Office reviewed the case on its merits and denied modification. It noted that the evidence was not entirely clear what specific dates of disability appellant was claiming.

LEGAL PRECEDENT

The Office's regulation defines the term recurrence of disability as follows:

"Recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness. This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations."²

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.³ To establish a change in the nature and extent of the injury-related condition, there must be probative medical evidence of record. The evidence must include a medical opinion, based on a complete and accurate factual and medical history and supported by sound medical reasoning, that the disabling condition is causally related to employment factors.⁴

The Office's procedures acknowledge that in claims for disability within 90 days of a return to work, the focus is generally on disability, not causal relationship and a physician's statement on causal relationship may be sufficient on the issue even without medical rationale.⁵ There are, however, situations where a rationalized medical opinion is still required, such as when the diagnosis is different from the accepted condition.⁶ Moreover, a claimant must provide probative evidence of disability for work, including evidence that "describes the duties which the employee cannot perform and the demonstrated objective medical findings that form the basis for renewed disability for work."⁷

² 20 C.F.R. § 10.5(x).

³ *Albert C. Brown*, 52 ECAB 152 (2000); *Mary A. Howard*, 45 ECAB 646 (1994); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁴ *Maurissa Mack* 50 ECAB 498 (1999).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5(6) (September 2003).

⁶ *Id.*, 2.1500.5(4) (September 2003).

⁷ *Id.*, 2.1500.6(b) (September 2003).

ANALYSIS

Appellant filed a CA-2a form on February 7, 2006 and the only date she referred to was January 13, 2004. The record indicated that she underwent carpal tunnel surgery on November 28, 2003 and had been off work through January 11, 2004. There was a claim for compensation filed for the period commencing November 28, 2003, but it is not clear how that claim was adjudicated by the Office. The decisions on appeal addressed the CA-2a form claim, not the period prior to January 12, 2004. Appellant did return to work on January 12, 2004, but was subsequently off work until March 1, 2004. She did not submit a clear statement as to whether she was claiming wage-loss compensation for the period January 13 to March 1, 2004, or whether there were other periods claimed.

To the extent appellant claims a recurrence of disability commencing January 13, 2004, this would be a recurrence of disability within 90 days of a return to work. Dr. Boyer treated appellant on January 13, 2004 with a diagnosis of right carpal tunnel syndrome and right trigger finger. He noted scar tenderness and briefly indicated on a form report that appellant could work without using her right arm, without further explanation. Dr. Boyer did not provide probative medical evidence establishing that appellant was disabled for the light-duty job. It appeared that the light-duty job appellant was performing did not require use of the right arm. Dr. Boyer did not discuss the light-duty job or provide an opinion that appellant was disabled for the position.

Dr. Boyer provided additional form reports from 2005 and 2006 with limitations of use of the right hand. Again, it is not clear whether appellant is claiming any specific dates of disability during this period. She must identify the claimed periods of disability and submit medical evidence that demonstrates she was unable to perform the job duties due to her employment injuries. As to whether there are additional employment-related conditions, Dr. Boyer opined in his August 29, 2006 report that the MRI scan findings, which included heterotopic ossification along the volar radial aspect of the right wrist, were employment related. A rationalized medical opinion is one that contains a complete factual and medical background and supports the opinion with medical rationale.⁸ Dr. Boyer stated that the MRI scan findings were employment related, without providing any medical rationale to support his opinion. Moreover, he did not discuss disability for work. The Board finds Dr. Boyer's reports are insufficient to establish a period of employment-related disability in this case.

CONCLUSION

Appellant did not establish a recurrence of disability on or after January 13, 2004.

⁸ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 19, 2006 is affirmed.

Issued: November 5, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board