

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VALERIE A. HODGE and U.S. POSTAL SERVICE,
POST OFFICE, Boulder, Colo.

*Docket No. 96-1813; Submitted on the Record;
Issued May 18, 1998*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issues are: (1) whether the Office of Workers' Compensation Programs properly determined that appellant was not entitled to a schedule award; and (2) whether appellant has established that she sustained a recurrence of disability on or after January 3, 1996.

The Board has duly reviewed the case and finds that the Office properly found that appellant was not entitled to a schedule award and that she has failed to establish that she sustained a recurrence of disability on or after January 3, 1996.

On June 21, 1995 appellant, then a 42-year-old mail handler filed an occupational disease claim for pain in her elbow and knee. She submitted evidence to support her claim including a medical report from Dr. Jacqueline D. Stern, a Board-certified family practitioner, dated March 21, 1995 in which Dr. Stern diagnosed, *inter alia*, right shoulder tendinitis. A report from Dr. John B. Draper, a Board-certified family practitioner, dated June 20, 1995, revealed a left lateral epicondylitis and right knee pain from hamstring pull. He stated that both these conditions were probably aggravated by appellant's employment based on the fact that appellant used her grip strength to lift heavy bundles of mail and that appellant's chronic standing on the job could worsen the knee pain as well. Dr. Draper placed lifting restrictions on appellant and stated that she should only work six to eight hours. Appellant also submitted a statement dated June 26, 1995 and a duty status report from Dr. Draper dated June 20, 1995 describing her work restrictions. By letter dated June 26, 1995, the employing establishment stated that appellant's job duties included lifting and carrying up to 70 pounds, standing, walking, pulling, kneeling and twisting and that she often worked 6 days a week and often worked 9- to 10-hour days and occasionally up to 12 hours a day.

On September 8, 1995 appellant filed a claim for a schedule award.

By letter dated October 2, 1995, the Office advised appellant that to establish a claim for a schedule award she must submit medical evidence containing a percentage of permanent

impairment of her condition pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1994).

On July 11, 1995 the Office accepted appellant's claim for left lateral epicondylitis and right hamstring pull. By decision dated November 8, 1995, the Office denied appellant's claim for a schedule award stating that appellant did not submit the appropriate evidence to establish her claim.

On March 6, 1996 appellant filed a notice of recurrence of disability alleging that she sustained a recurrence of disability on January 3, 1996. She stated that she stopped working on February 23, 1996 and returned to work on February 24, 1996. Appellant stated that after the April 1, 1995 employment injury, she returned to her work with lifting and standing restrictions. By decision dated March 13, 1996, the Office denied appellant's claim on the grounds that the evidence of record failed to demonstrate a causal relationship between the alleged recurrence of disability on or after January 3, 1996 and the April 1, 1995 employment injury.

Regarding appellant's claim for a schedule award, although the Office gave appellant the opportunity to do so, appellant did not submit any medical evidence containing a percentage of permanent impairment pursuant to the A.M.A., *Guides*. Therefore, she did not establish her entitlement to a schedule award.¹

An individual 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 compensation is claimed is causally related to the accepted injury.² When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that 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 she cannot perform such light duty.³ As part of this burden, the employee must show a change in the nature and extent of the light-duty job requirements or a change in the nature and extent of the injury-related condition.⁴ 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 the employment injury, and supports that conclusion with sound medical reasoning.⁵ An award of compensation may not be made on the basis of surmise, conjecture, or speculation or an appellant's unsupported belief of causal relation.⁶

¹ See *Paul R. Evans*, 44 ECAB 646, 651; see *Ronald J. Pavlik*, 33 ECAB 1596 (1982).

² *Dominic M. DeScala*, 37 ECAB 369 (1986); *Bobby Melton*, 33 ECAB 1305 (1982).

³ *George DePasquale*, 39 ECAB 295, 304; *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

⁴ *Id.*

⁵ See *Nicolea Brusio*, 33 ECAB 1138 (1982).

⁶ See *William S. Wright*, 45 ECAB 498, 504 (1994).

Appellant submitted evidence to support her claim including an attending physician's reports, Form CA-20, dated December 4, 1995 from Dr. Stern who checked the "yes" box that appellant's condition of lateral epicondylitis was work related "according to [appellant's] history," an accident report of an injury occurring on June 20, 1995, a duty status report dated September 12, 1995 from Dr. Robert R. Rokicki, a Board-certified orthopedic surgeon, a statement from appellant dated March 1, 1996, a work capacity evaluation from Dr. Rokicki dated February 26, 1996, stating that appellant required restrictions and needed to change her job and progress notes and miscellaneous test results dated from March 21, 1995 to February 23, 1996. In a report dated August 16, 1995, Dr. Raphael J. d'Angelo, a Board-certified family practitioner with a specialty in allergy and immunology, diagnosed ongoing lateral epicondylitis and ongoing tendinitis in the right shoulder. In a report dated February 23, 1996, Dr. Stern diagnosed musculoskeletal complaints. In a report dated February 26, 1996, Dr. Rokicki stated that appellant worked a heavy maintenance job, often pushing 100- to 1,000-pound tugs and frequently up to 50 pounds. He stated that appellant's job is quite physical and aggravated her right rotator cuff tendinitis, a left tennis elbow, a lateral epicondylitis, and a right knee strain of unclear etiology, possibly hamstring.

In the present case, appellant has not submitted sufficient evidence to establish her claim. Dr. Draper's February 20, 1995 report in which he stated that appellant's left lateral epicondylitis and right knee pain were "probably" aggravated by her employment is speculative and not sufficiently rationalized to establish a recurrence of disability.⁷ Dr. Stern's December 4, 1995 report in which he checked the "yes" box indicating that appellant's lateral epicondylitis is work related without a rationalized explanation is insufficient to establish the requisite causation between appellant's April 1, 1995 injury and the recurrence of disability.⁸ Other narrative reports in the record from Dr. d'Angelo dated August 16, 1995 and Dr. Stern dated February 23, 1996 are not relevant as they do not address causation. Dr. Rokicki's February 26, 1996 report stating that appellant's employment aggravated her lateral epicondylitis and the right knee strain is not probative because he did not provide a rationalized opinion explaining a causal connection.⁹ The other evidence appellant submitted consisting of progress notes, duty status reports and a work capacity evaluation are not relevant as they do not address causation. Inasmuch as appellant has failed to submit rationalized medical evidence establishing that her alleged recurrence of disability is causally related to her April 1, 1995 employment injury, she has failed to establish her claim.

Accordingly, the decisions of the Office of Workers' Compensation Programs dated March 19, 1996 and November 8, 1995 are hereby affirmed.

Dated, Washington, D.C.
May 18, 1998

⁷ *Id.*

⁸ See *Ruth S. Johnson*, 46 ECAB 237, 242 (1994).

⁹ See *Nicolea Brusco*, *supra* note 5.

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member