

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BETTY CROCKETT and U.S. POSTAL SERVICE,
POST OFFICE, Philadelphia, PA

*Docket No. 00-208; Submitted on the Record;
Issued January 2, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant's recurrence of disability beginning April 17, 1999 is causally related to her November 22, 1996 employment injury.

The Office of Workers' Compensation Programs accepted that appellant, then a 40-year-old mail processor sustained a lumbosacral sprain while lifting trays at work on November 22, 1996. Appellant stopped work on November 22, 1996 and returned to light duty on January 21, 1997.

On March 21, 1997 appellant filed a recurrence of disability claim alleging disability beginning March 18 through 25, 1997, due to her November 22, 1996 injury. By decision dated July 8, 1997, the Office disallowed appellant's recurrence of disability claim on the grounds that the medical evidence failed to show that appellant was totally disabled from the effects of the work injury from March 18 to 25, 1997.¹

Appellant again stopped work on April 20, 1999. On May 3, 1999 she filed a claim for a recurrence of disability beginning April 17, 1999 due to her November 22, 1996 employment injury. In a narrative statement accompanying the claim, appellant stated that, on April 17, 1999, after running various machines at work, she became very tired. Appellant further stated:

“Sunday and Monday ... I stayed in bed due to the fact that my back felt like a metal rod going down my spine and it felt compressed and very painful. Tuesday I felt sharp pains shooting across my back along with the other discomforts.... I

¹ The Office subsequently referred appellant to an orthopedic specialist to determine the extent of her impairment as a result of the November 22, 1996 employment injury. Dr. Steven Valentino, an osteopath, conducted an independent medical examination on May 21, 1997 and found that appellant's lumbar strain had resolved. He also found that appellant had non-occupational, age-related degenerative changes in the lumbar spine. Based on his report, the Office later terminated appellant's entitlement to compensation benefits on August 15, 1997.

returned to work on April 27, 1999 and was given a position in Primary to case mail.... As I began to case mail I noticed that after sitting for awhile (approximately 1-½ hours) I started feeling a burning pain running down the outer side of my right leg to the bottom of my foot.... The pain lasted the rest of the night.... On April 28, 1999 I would experience the same discomforts... After casing for awhile my shoulder began to hurt and my neck began to get tight. My neck had gotten so tight that my ear hurt [right] side.... On April 29,1999 ... I felt somewhat all right but around break time (6:30 p.m.) my shoulder began to burn and my neck did n[ot] feel right either. I returned to work and about 8:30 p.m. the pain in my leg returned.... I could n[ot] stand the pain in my back, the burning pain and tingling in my leg, the stiffness in my neck and the pain in my shoulder. At that point, I requested to go to medical.”

By letter dated May 20, 1999, the Office advised appellant that it needed additional information on her claim for a recurrence of disability, including a medical report containing an opinion, supported by medical rationale as to how her claimed conditions were medically related to her November 22, 1996 injury. Appellant submitted medical evidence dated April 23 through August 23, 1999, from various doctors to support her claim.

By decision dated July 27, 1999, the Office found that the evidence failed to establish that appellant’s claimed recurrence of disability was causally related to her November 22, 1996 employment injury.

The Board finds that appellant has not established that she sustained a recurrence of disability beginning April 17, 1999 due to her November 22, 1996 employment injury.

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 establishes that the employee 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 to show that he or 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 light-duty job requirements.² As part of this burden, appellant must furnish rationalized medical opinion evidence, based on a complete and accurate factual and medical history, showing a causal relationship between the claimed recurrence of disability and an accepted employment injury.³ Causal relation and disability are medical issues that must be resolved by competent medical evidence.⁴

In the present case, appellant has not submitted any medical evidence showing that the alleged recurrence of disability beginning April 17, 1999 is causally related to the November 22, 1996 employment injury. She also has not shown that the nature and extent of her injury

² *Terry R. Hedman*, 38 ECAB 222 (1986).

³ *Armando Colon*, 41 ECAB 563 (1990).

⁴ *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990); *Ausberto Guzman*, 25 ECAB 362 (1974).

worsened due to the November 22, 1996 employment injury or that her light-duty job requirements changed. Appellant submitted medical evidence from several doctors dated from April 23 through August 23, 1999, but none of this evidence, while it addresses that appellant had persistent back and leg problems, sufficiently addresses the cause of the alleged April 17, 1999 recurrence of disability.

In a report dated May 6, 1999, Dr. Maxwell Stepanuk, an osteopath, related that on April 17, 1999 appellant experienced pain in her back while at work. He diagnosed lumbar strain and sprain, degenerative disc disease of the lumbar spine and right lower extremity radiculopathy.

In a report dated June 7, 1999, Dr. Steven Mandel, a Board-certified neurologist, reported that appellant complained of problems in her back and legs secondary to an injury of April 17, 1999 and related that, during appellant's course of employment that day, her back pain reportedly got worse. He found that electrical studies revealed minor abnormalities at L5-S1. Neither of these reports indicated whether appellant's disability was causally related to her November 22, 1996 employment injury.

In a report dated June 14, 1999, Dr. Michael Helzner, an osteopath, reported that appellant had a previous injury in November 1996 and reinjury April 17, 1999. He further indicated that appellant's work duties as a mail processor, involved repetitive movement. Dr. Helzner stated: "It is my opinion that the injury of April 1999 has exacerbated the pain and has caused a herniated disc. Her symptoms now show pain that radiates to the right leg." His opinion is not probative, however, because he did not provide any medical rationale explaining the causal relationship between appellant's conditions and her November 22, 1996 employment injury. Therefore, his report is insufficient to establish appellant's claim for a recurrence of disability due to this injury.⁵

As appellant has presented no rationalized medical evidence establishing that the claimed recurrence of disability beginning April 17, 1999 is causally related to the November 22, 1996 employment injury, she has failed to meet her burden of proof that she sustained a recurrence of disability as alleged.

⁵ See *Lucrecia M. Nielsen*, 42 ECAB 583, 594 (1991).

The decision of the Office of Workers' Compensation Programs dated July 27, 1999 is hereby affirmed.

Dated, Washington, DC
January 2, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member