

On December 4, 1999 appellant, then a 36-year-old letter carrier, was driving a load of parcels in a two-ton truck when the rear door opened. Appellant pulled the truck to the side of

the road and attempted to close the rear door. After several attempts, appellant pulled the jammed door down suddenly, striking her left wrist on a gurney.

In a December 9, 1999 report, Dr. Louise Price, an osteopath, gave a history of appellant's employment injury. She stated that x-rays were negative. Dr. Price diagnosed cervical, thoracic and lumbar strains, a left wrist strain with contusions, and contusions and abrasions of the left hand. Appellant returned to work with restrictions of no lifting, pushing or pulling over 20 pounds, bending less than 10 times an hour, and limited use of the left hand.

In a May 9, 2000 report, Dr. David K. Wong, a Board-certified hand surgeon, stated that appellant had a decrease in symptoms at the left wrist. He diagnosed carpal tunnel syndrome. The Office accepted appellant's claim for a sprain and contusions of the left wrist. In an October 18, 2001 report, Dr. Wong stated that appellant was having further carpal tunnel-type symptoms. Appellant complained of getting a "fuzzy feeling" in her left hand when she carried mail. She also stated that she had pain in the left arm and strength appeared to be diminishing. He recommended an electromyogram (EMG) to compare to an EMG from April 1999 which had been normal with no evidence of an entrapment syndrome. Dr. Wong also recommended a magnetic resonance imaging (MRI) scan test.

On June 27, 2002 appellant filed a claim for an occupational injury which began December 4, 1999. She stated that her wrist and hand had been in pain since the original injury. On July 5, 2002 appellant filed a claim for a recurrence of disability. She indicated that her arm had continued to hurt since the employment injury. Appellant noted that, in October 2001, Dr. Wong ordered tests but appellant found that her compensation claim had been closed. She indicated that she had increased pain when carrying more flats on her arm or more letters in her hand. Appellant stated that she experienced a throbbing pain with a "fuzzy" tingling in her fingers. She did not stop working.

In a July 23, 2002 report, Dr. Wong stated that an MRI scan showed a cyst in the pisotriquetral area which was the point where appellant had the most pain. He indicated that appellant's pain extended from the wrist to the medial elbow and then to the parascapular trapezial area on the left side. Dr. Wong noted that appellant was beginning to have the same symptoms on the right side.

In a September 4, 2002 decision, the Office denied appellant's claim for a recurrence of disability on the grounds that the evidence of record failed to establish that she had a recurrence of disability that was objectively, medically related to her accepted injuries.

In a September 19, 2002 letter, appellant requested a hearing before an Office hearing representative. She submitted a September 20, 2002 report from Dr. Wong who indicated that appellant was currently complaining of spasms in the left hand and left elbow. He stated that appellant's current symptoms were directly related to her December 4, 1999 employment injury. Dr. Wong indicated that appellant had not been symptom free since the employment injury. He stated that appellant's EMG test was positive for cubital tunnel syndrome in the left arm which was consistent with her symptoms. He noted that the MRI scan showed fluid in the left wrist consistent with a small cyst and some tendinitis.

Appellant also submitted a September 10, 2002 report from Dr. Allen B. Tate who stated that an MRI scan showed disc degeneration at C5-6 with a slight right paracentral disc protrusion or broad based herniated nucleus pulposus at that level. He noted that there was not a significant central canal narrowing at C5-6. Dr. Tate indicated that appellant might have a neural foraminal narrowing on the left at that level secondary to uncovertebral hypertrophy.

In a December 6, 2002 letter, appellant amended her request, asking for a written review of the record by an Office hearing representative.

In a November 14, 2002 report, Dr. David Hicks, a Board-certified orthopedic surgeon, noted appellant's history of the December 4, 1999 employment injury. He indicated that in August or September 2002 appellant complained of cervical pain extending into her left shoulder. Dr. Hicks commented that x-rays were consistent with degenerative cervical spondylosis, most marked at C5-6. He diagnosed pain and internal disc derangement at L5-6 but no neurologic deficits. Dr. Hicks stated that appellant's symptoms were not related to a cervical radiculopathy or a cervical disc herniation. He suggested that appellant's symptoms were most likely the result of a torn or injured disc at the C5-6 level. In a December 12, 2002 report, Dr. Hicks stated that appellant persisted with intense cervical pain extending into her shoulders and arms. He commented that Dr. Wong took appellant off work the day before. In a February 20, 2003 report, Dr. Hicks stated that, based on appellant's history and medical reports, it was probable that the problems for which appellant needed cervical discograms stemmed from her December 4, 1999 employment injury.

In a March 28, 2003 report, Dr. Wong stated that Dr. Hicks had recommended a fusion of the cervical spine. Dr. Wong indicated that appellant complained of constant pain in her neck and continued to have left cubital tunnel type symptoms. He commented that appellant had all these symptoms since her 1999 employment injury. Dr. Wong stated that the left arm symptoms and the cervical symptoms were aggravated by the injury and by her attempts to work since then. He declared that all of appellant's symptoms were work related.

In a May 29, 2003 decision, the Office hearing representative found that the evidence of record failed to establish that the medical conditions for appellant sought compensation on and after July 2002 were causally related to her December 4, 1999 employment injury. He therefore affirmed the Office's September 9, 2002 decision.

Appellant requested reconsideration. She submitted a June 16, 2003 report from Dr. Hicks who indicated that Dr. Price had indicated that appellant, two days after the employment injury, complained of pain in the left hand, left wrist, and in the cervical, thoracic and lumbar regions of the spine. Dr. Price noted that appellant had no prior history of injury to those areas. Dr. Hicks stated that, in all medical probability, if appellant had not sustained injuries in the December 4, 1999 incident, he would not be currently seeing her for problems with her cervical spine.

In an August 29, 2003 report, Dr. Wong reviewed appellant's medical history. He stated that appellant's neck symptoms were becoming worse than her arm symptoms although both were severe. Dr. Wong commented appellant's condition had markedly worsened due to the effects of the employment injury and were exacerbated by her attempts to work at light-duty

work full time after that injury. He diagnosed internal derangement of the wrist secondary to a cyst, ulnaris tendinitis with degenerative changes, left wrist cubital tunnel syndrome and cervical spine degenerative disc changes. Dr. Wong commented that appellant was not symptomatic until the December 4, 1999 employment injury. He stated that appellant's symptoms were due to the employment injury and to altered mechanics in the use of her hand and arm and strain on her neck caused by continuing to work with painful symptoms. Dr. Wong noted that appellant had severe symptoms which were well documented and supported by initial medical reports and objective testing.

Appellant underwent surgery on August 8, 2003 for a fusion of the C5-6 vertebrae. She underwent surgery on November 11, 2003 for decompression of the ulnar and median nerves of the left wrist and anterior transposition of the ulnar nerve at the left elbow.

In a March 3, 2004 merit decision, the Office denied appellant's request for modification of the May 29, 2003 decision.

Appellant again requested reconsideration. In support of her request, she submitted a March 5, 2004 report from Dr. John Merriman, a specialist in pain management, who in his report, recounted appellant's medical history and indicated that appellant continued to have pain even after three operations and despite the treatment she had received. He indicated that, during this period of time, appellant was carrying heavy loads at work of up to 70 pounds which aggravated her symptoms. Dr. Merriman commented that appellant's sorting of the mail involved rotating the wrist and elbow as well as repetitive overhead motion. He stated that appellant's neck and thorax had the typical findings of a whiplash type of injury. Dr. Merriman indicated that appellant's constant pulling on the truck door and the sudden release of the door was the equivalent of a whiplash injury. Appellant had neck and thoracic spasms. Dr. Merriman stated that appellant strained ligaments between the distal radius and the ulna. He noted that appellant had ligamentous instability over the scapholunate ligament which was the medical equivalent of a carpal tunnel syndrome because when the scapholunate ligament was lax, the lunate bone would encroach on the carpal tunnel, giving pressure on the median nerve thereby producing all the symptoms of a carpal tunnel syndrome. Dr. Merriman diagnosed ligamentous instability, cervical, thoracic, carpal and lateral epicondylitis, all related to her employment injury.

In a June 21, 2004 merit decision, the Office again denied appellant's request for modification of the Office's prior decisions.

Appellant made another request for reconsideration. She submitted a July 12, 2004 report from Dr. Gary Lee, Board-certified in sports medicine, who provided appellant's ranges of motions for the arms and shoulders. He stated that appellant had a normal sensory examination of the arms throughout all cervical nerve distributions. Dr. Lee noted that appellant's December 4, 1999 employment injury included cervical and lumbar injuries as well as injuries to the left arm. He commented that the mechanism of injury was consistent with the injuries sustained, including a cervical spine injury and a left arm injury that included the development of nerve entrapment and instability of the left wrist. Dr. Lee stated that the entire medical treatment appellant received related to the December 4, 1999 work injuries. He recommended a full reevaluation of appellant.

In an August 25, 2004 merit decision, the Office denied appellant's request for modification of the prior decisions.

### **LEGAL PRECEDENT**

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 employment injury. As part of this burden, the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition and supports that conclusion with sound medical reasoning.<sup>1</sup>

### **ANALYSIS**

Dr. Wong discussed the relationship between the December 4, 1999 employment injury and appellant's subsequent recurrence of disability in his March 28, 2003, and August 29, 2004 reports. In both reports, Dr. Wong stated that appellant had no symptoms in the cervical region or the left arm prior to the December 4, 1999 employment injury. However, the absence of symptoms prior to an employment injury is insufficient reasoning to support a finding that the employment injury caused the subsequent symptoms. The Board has long held that neither the fact that a condition became apparent during a period of employment nor the belief of a claimant that a condition was caused or aggravated by the employment is sufficient to establish causal relationship.<sup>2</sup> Dr. Wong stated in the August 29, 2004 report that appellant's symptoms were due to the employment injury and the altered mechanics in the use of her arm and strain of her neck. However, he did not give a further explanation of what the altered mechanics were and did not describe how such altered mechanics would cause appellant's symptoms to persist. Dr. Wong's report therefore has little probative value.

Dr. Hicks addressed the issue of causal relationship in his February 20, 2003 report in which he stated that, based on appellant's history and medical reports, it was probable that the problems for which appellant needed cervical discograms arose from the employment injury. Dr. Hicks gave no rationale to support his conclusion and no explanation on how the employing establishment would have caused appellant's cervical condition. His report therefore has minimal probative value and is insufficient to establish that appellant's employment injury caused his subsequent recurrence of disability.

Dr. Merriman, in his March 5, 2004 report, stated that appellant's neck and thorax had the typical findings of a whiplash injury and described how the December 4, 1999 activity of trying to close the rear door of the truck would have produced a whiplash injury. He also stated that appellant's ligamentous instability was the medical equivalent of a carpal tunnel syndrome. Dr. Merriman, however, did not explain how appellant's symptoms would have persisted from

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<sup>1</sup> *Bernard Snowden*, 49 ECAB 144, 148 (1997).

<sup>2</sup> *Ernest St. Pierre*, 51 ECAB 623 (2000).

the December 4, 1999 employment injury to subsequently cause appellant's recurrence of disability. His report therefore has limited probative value.

Dr. Lee, in his July 12, 2004 report, stated that appellant's mechanism of injury was consistent with the injuries sustained, including the cervical spine injury and a left arm injury. He, like Dr. Wong, did not describe the mechanism of injury or give a physiological explanation on how the mechanisms of injury would have caused appellant's recurrence of disability over two years after the employment injury. His report therefore has little probative value. The opinions on the issue of causal relationship given by Drs. Wong, Hicks, Merriman and Lee have insufficient probative value to meet appellant's burden of proof in establishing that the employment injury of December 4, 1999 caused her recurrence of disability after July 5, 2002.

### **CONCLUSION**

Appellant did not meet her burden of proof in establishing that she sustained a recurrence of disability after July 5, 2002 causally related to the December 4, 1999 employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs, dated August 25 and June 21 and March 3, 2004, be affirmed.

Issued: April 20, 2005  
Washington, DC

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member