

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JACQUELINE B. BUGGS and U.S. POSTAL SERVICE,
POST OFFICE, Washington, D.C.

*Docket No. 96-396; Submitted on the Record;
Issued January 12, 1998*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof in establishing that she sustained a recurrence of disability causally related to her January 25, 1990 employment injury.

On January 20, 1990 appellant, then a 42-year-old letter carrier, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1), alleging that she injured her back when she fell down while getting out of the postal vehicle to deliver mail. The Office of Workers' Compensation Programs accepted the claim for acute lumbar strain on March 12, 1990. Appellant returned to limited-duty work on April 13, 1990.

In a letter dated July 11, 1994, the Office informed appellant that her "case has been closed since August 26, 1993. Should you wish to re-open this case, you should file Form CA-2a."

On August 30, 1994 appellant filed a notice of recurrence of disability and claim for continuation of pay/compensation (Form CA-2a) alleging that her present condition is a continuation of her original injury.

In a report dated September 13, 1994, Dr. Frederick W. Gooding, Sr., appellant's treating Board-certified physiatrist, diagnosed "1. acute exacerbation of chronic myofascial pain syndrome affecting the neck and right shoulder girdle; 2. chronic radiculoneuritis at :L5-S1 on the left; 3. rule out lumbar discitis for diagnosis no. 2; 4. acute exacerbation of lumbosacral strain; 5. suboccipital neuralgia; 6. situational hyperanxiety syndrome. Under discussion, Dr. Gooding noted that appellant "has had some chronic symptomatology since her fall several years ago and appears to be experiencing re-exacerbation of her symptoms as a result of cumulative stress to the affected musculoskeletal areas" Dr. Gooding recommended "a course of physiotherapy including pelvic traction at a frequency of three times per week for the next four to six weeks."

In a letter dated October 18, 1994, the Office noted the medical evidence appellant had submitted and the deficiency in the reports. The Office requested appellant to provide detailed information regarding her claim for recurrence. The Office specifically instructed appellant to provide a comprehensive medical report from her treating physician regarding the cause of her condition. She was given 30 days in which to reply.

In a report dated October 22, 1994, Dr. Gooding diagnosed lumbar disk syndrome and chronic myofascial pain syndrome. He noted that her prognosis remained guarded and recommended that she continue with her light-duty restrictions for four additional weeks. He noted that "I suspect she will end up with this permanent level of restriction."

In reports dated November 3, 1994 January 3 and 30, 1995 and April 4, 1995, Dr. Gooding recommended physical therapy and noted that her prognosis was guarded. He noted her disability status as "light duty."

In a letter dated January 19, 1995, the Office informed appellant that an examination had been scheduled with Dr. Robert E. Collins, a Board-certified orthopedic surgeon.

In a report dated February 7, 1995, Dr. Collins, based upon a review of the medical records, a statement of accepted facts and a physical examination of appellant, opined that appellant had reached maximum medical improvement and has no ratable disability from the January 25, 1990 injury. He noted that appellant was currently working light duty and could continue to that position. Dr. Collins diagnosed appellant as having "underlying degenerative arthritis in the neck and back as well as a previous back injury." The physician noted that appellant is limited in heavy lifting due to underlying degenerative changes in her neck and back.

In a letter dated March 15, 1995, the employing establishment offered appellant a permanent light-duty position as distribution clerk/modified based upon her permanent restrictions noted by her treating physician which appellant accepted under protest. The offer described her duties as including: "sitting at a table cutting mailing labels off of magazines to process address corrections/processing and separating return to sender mail/preparing envelopes to be used for returning items found loose in the mail." The medical work restrictions were noted as "intermittent sitting and standing (3 hours)/intermittent walking (2 hours)/lifting 0 to 10 lbs. only/no bending, squatting, climbing, kneeling or twisting/no exposure to cold or dampness/a chair with back support will be provided/no bending forward."

In a decision dated October 13, 1995, the Office denied appellant's claim for recurrence of disability after August 30, 1994 because the medical evidence of record established that appellant's back strain had resolved. In the attached memorandum, the Office relied upon the opinion of Dr. Collins to find that appellant's back strain had resolved.

The Board finds that appellant has not met her burden of proof in submitting evidence to support that she sustained a recurrence of disability causally related to her January 25, 1990 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 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.¹ In the instant case, appellant has failed to establish either a change in the nature or extent of her light-duty requirements or a change in her accepted injury.

Appellant does not allege, nor is there any evidence, that her light duties changed and contributed to a recurrence of total disability.

Causal relationship is a medical issue² and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific factors identified by the claimant.³

In this case, appellant has submitted various reports from her treating physician, Dr. Gooding. Dr. Gooding recommended that appellant continue her light-duty work and go to physical therapy. However, Dr. Gooding did not attribute appellant's disability to her employment injury. Appellant, therefore, has not submitted rationalized medical evidence explaining how and why her current condition was related to her January 25, 1990 employment injury and thus has not met her burden of proof in establishing her claim. Furthermore, Dr. Collins, the second opinion physician, opined that appellant had recovered from her employment injury, but opined that she should continue her light-duty position to avoid future injury.

The Board finds that the evidence of record does not establish a change in the nature or extent of appellant's light duties or a change in the nature and extent of her employment injury establishing that she sustained a recurrence of total disability from her January 25, 1990 employment injury.

¹ *Gus N. Rodes*, 46 ECAB ____ (Docket No. 93-950, issued February 14, 1995); *Cynthia M. Judd*, 42 ECAB 246 (1990); *Terry R. Hedman*, 38 ECAB 222 (1986).

² *Mary J. Briggs*, 37 ECAB 578 (1986).

³ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

The decision of the Office of Workers' Compensation Programs dated October 13, 1995 is hereby affirmed.

Dated, Washington, D.C.
January 12, 1998

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member