

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONNA M. OSBURN and U.S. POSTAL SERVICE,
POST OFFICE, Wichita, Kans.

*Docket No. 96-523; Submitted on the Record;
Issued January 7, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained a recurrence of disability on January 27, 1995 causally related to her July 9, 1988 employment-related right shoulder strain.

On July 22, 1988 appellant, then a 56-year-old mail processor, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that she injured her right knee and right shoulder when she tripped and fell over air hose on the floor on July 9, 1988. The Office of Workers' Compensation Programs accepted the claim for contusion, right shoulder on November 18, 1988. On January 24, 1989 the Office accepted appellant's claim for tear, long head, right bicep.

On February 23, 1995 appellant filed a notice of recurrence of disability and claim for continuation of pay/compensation (Form CA-2a) alleging that she sustained a recurrence of her right arm injury on January 27, 1995 which is due to her accepted employment injury of July 9, 1988.

In a report dated March 7, 1995, Dr. Tyrone D. Artz, a Board-certified orthopedic surgeon, noted that appellant's lifting and pulling boxes weighing 25 to 30 pounds aggravated her shoulder discomfort. Dr. Artz noted, based upon examination, that appellant "has evidence of rupture of the long head of the biceps tendon in her right upper arm.

On March 6, 1995 appellant filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that she injured her right shoulder or muscle on March 3, 1995 when she was reaching to put mail in the top of a box. The Office accepted appellant's claim for a right shoulder strain on August 10, 1995.

In a letter dated March 28, 1995, the Office requested appellant to submit additional information in support of her January 27, 1995 recurrence claim.

In a decision dated May 23, 1995, the Office found the evidence insufficient to establish that appellant sustained a recurrence of disability on January 27, 1995 causally related to her July 9, 1988 employment injury. The Office noted that appellant sustained a new injury on March 3, 1995 which it accepted for right shoulder strain.

In a letter dated November 25, 1995, appellant disagreed with the Office's May 23, 1995 denial of her claim, and she submitted reports from Dr. Ward A. McClanahan, a Board-certified orthopedic surgeon, and Dr. Larry K. Wilkinson, a Board-certified family physician, a copy of an Equal Employment Opportunity discrimination complaint and affidavit and statements from her coworkers in support of her request for reconsideration.

In a note dated July 17, 1995, Dr. McClanahan stated that appellant was initially seen on October 25, 1988 with a diagnosis of ruptured right long head bicep tendon. Dr. McClanahan opined that appellant should be limited to lifting no more than 30 pounds above shoulder level and that "weakness in flexion of this bicep will be permanent."

In a report dated July 28, 1995, Dr. Wilkinson diagnosed "chronic bursitis, tendinitis of your right shoulder that is aggravated by exceeding your weight restrictions or working with your hands above your shoulder height." Dr. Wilkinson stated that he could not give an opinion as to whether her current symptoms were related to her previous injuries, but that she has a "compromised right shoulder because of your ruptured bicep tendon which makes you more susceptible to peritendinitis and bursitis."

In a decision dated February 12, 1996, the Office denied modification of the May 23, 1995 decision.

The Board finds that appellant has not established that she sustained a recurrence of disability on January 27, 1995 causally related to her July 9, 1988 employment-related right shoulder strain.

Appellant sustained a July 9, 1988 employment injury which the Office accepted for contusion right shoulder and tear, long head, right bicep. On February 23, 1995 appellant filed a notice of recurrence of disability and claim for compensation alleging that she sustained a recurrence of disability on January 27, 1995 causally related to her July 9, 1988 employment injury. Appellant sustained another injury on March 3, 1995 which the Office accepted as right shoulder strain.

As used in the Federal Employees' Compensation Act,¹ the term "disability" means incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of the injury.² When an employee claims a recurrence of disability due to an accepted employment injury, he has the burden of establishing by the weight of the reliable, probative, and substantial medical evidence that the recurrence claimed is causally related to an accepted

¹ 5 U.S.C. §§ 8101-8193.

² 20 C.F.R. § 10.5(17); *Richard T. DeVito*, 39 ECAB 668, 674 (1988); *Frazier V. Nichol*, 37 ECAB 528, 540 (1986).

employment injury.³ As part of this burden, the employee must submit rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the current disabling condition and the accepted employment injury.⁴ Causal relationship is medical in nature and can be established only by medical evidence.⁵ Where no such rationale is present, the medical evidence is of diminished probative value.⁶

Although appellant submitted medical evidence in support of her claim, the Board finds the evidence is insufficient to establish that her recurrence of disability as of January 27, 1995 is causally related to her July 8, 1988 employment injury. Appellant has not established by the weight of probative and substantial evidence that the claimed recurrence of disability was causally related to her accepted employment injury. The evidence of record does not include a rationalized medical opinion establishing that appellant's condition and disability as of January 27, 1995 were causally related to her July 8, 1988 employment injury.⁷

Dr. Artz, in his March 7, 1995 report, listed restrictions for appellant at work and diagnosed a rupture of her biceps tendon in her right arm. Dr. Artz's opinion is insufficient to meet appellant's burden as he does not provide any opinion as to whether appellant's disability commencing January 27, 1995 is causally related to her July 8, 1988 employment injury. The other medical evidence of record does not address the relevant issue in this case.

The evidence of record, therefore, fails to establish that appellant's July 8, 1988 employment injury caused or contributed to her disability on or after January 27, 1995. The evidence does not include a rationalized medical opinion establishing that appellant's condition and disability as of January 27, 1995 were causally related to her July 8, 1988 employment injury. As appellant has not established by the weight of the probative and substantial evidence that the claimed recurrence of disability was causally related to her accepted employment injury, the Board finds that appellant has not met her burden of proof to establish that his condition and disability as of January 27, 1995 were causally related to her July 8, 1988 employment injury.

³ 20 C.F.R. § 10.121(a); *see also* *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

⁴ *E.g.*, *Kevin J. McGrath*, 42 ECAB 109, 116 (1990); *Herman W. Thornton*, 39 ECAB 875, 887 (1988); *Dennis E. Twardzik*, 34 ECAB 536, 542 (1983); *see* 20 C.F.R. § 10.110(a).

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

⁶ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

⁷ Medical reports not containing rationale on causal relationship are entitled to little probative value and are generally insufficient to meet appellant's burden of proof; *see Ceferino L. Gonzales*, 32 ECAB 1591, 1594 (1981).

The decisions of the Office of Workers' Compensation Programs dated July 23 and May 23, 1995 are hereby affirmed.

Dated, Washington, D.C.
January 7, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member