

-U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LORETTA HENDRIX and U.S. POSTAL SERVICE,  
POST OFFICE, Lexington, Ky.

*Docket No. 96-2248; Submitted on the Record;  
Issued July 21, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant has established a recurrence of disability commencing June 26, 1995 causally related to her April 22, 1990 employment injury.

In the present case appellant filed a claim alleging that she sustained a left hand injury in the performance of duty on April 22, 1990, when an APC (all purpose container) shelf fell and struck her hand. The Office of Workers' Compensation Programs accepted the claim for left hand contusion and deQuervain's syndrome. Appellant returned to work in a light-duty position.<sup>1</sup>

On July 9, 1995, appellant filed a notice of recurrence of disability commencing June 26, 1995. By decision dated October 18, 1995, the Office denied the recurrence claim. Appellant requested reconsideration, and by decision dated February 6, 1996, the Office denied modification of the prior decision.

The Board has reviewed the record and finds that appellant has not established a recurrence of disability commencing June 26, 1995.

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, 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.<sup>2</sup>

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<sup>1</sup> Appellant eventually accepted a job offer as a manual distribution clerk in December 1994.

<sup>2</sup> *Terry R. Hedman*, 38 ECAB 222 (1986). Appellant has not alleged a change in the light-duty job requirements.

In the present case the medical evidence is not sufficient to establish a period of disability on or after June 26, 1995 that is causally related to the accepted employment injury.<sup>3</sup> In a form report dated August 8, 1995, Dr. Rahul Dixit, an orthopedic surgeon, indicated that appellant was examined on July 25, 1995 and he checked a box "yes" that appellant's present condition was due to the employment injury. The Board notes that Dr. Dixit did not provide a diagnosis or otherwise complete the form report. Moreover, the checking of a box "yes" is of little probative value on the issues presented without additional detail or explanation.<sup>4</sup> In an August 28, 1995 report, Dr. Dixit stated that appellant had increased soreness in her left arm after the July 25, 1995 examination, and "she was given a day off to let this settle down." Dr. Dixit does not provide an opinion as to causal relationship with the April 22, 1990 employment injury.

In a treatment note dated August 31, 1995, Dr. Charles R. Combs, an orthopedic surgeon, indicated that appellant had pain in her left hand, and he diagnosed deQuervain's disease, stenosing tenosynovitis of the left index finger, and probable osteoarthritis. Dr. Combs completed a form report (Form CA-20a) diagnosing deQuervain's disease and checking a box "yes" that the condition was due to the employment injury. Dr. Combs did not specifically indicate a period of disability. In a treatment note dated November 2, 1995, Dr. Combs stated in pertinent part, "It is my opinion that the patient's work related work factors that contribute to patient's disorder are repetitive motion of the wrist, thumb, index finger, and repetitive gripping and lifting. It is noted that patient's diagnosis is related to her injury in April 1990, for which I first saw the patient July 25, 1991, and made a diagnosis of left deQuervain's disease. It is noted that Dr. Eidelson made a similar diagnosis and sent her to me for treatment. The patient did not feel that she wanted an operative procedure at that time. It is noted that she has recurrent symptoms with exactly the same diagnosis."

To the extent that Dr. Combs relates appellant's condition to aggravation from work factors, such as repetitive motion and lifting, this would constitute a claim for a new injury, rather than a recurrence of disability.<sup>5</sup> The issue presented here is whether the medical evidence establishes a recurrence of disability commencing June 26, 1995 from the accepted April 22, 1990 employment injury. Dr. Combs does not discuss a period of disability for the light duty job. He indicates that the diagnosis remains the same as the initial diagnosis in July 1991, and notes "recurrent symptoms," without providing a reasoned opinion that establishes a change in the nature and extent of the employment-related condition on or after June 26, 1995. The Board notes once again that if appellant is claiming an aggravation of her employment injury by work factors, that is a claim for a new injury and is not before the Board on this appeal.

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<sup>3</sup> The Board notes that appellant submitted additional evidence after the February 6, 1996 Office decision. The Board cannot review evidence that was not before the office at the time of its final decision. 20 C.F.R. § 501.2(c).

<sup>4</sup> See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

<sup>5</sup> A recurrence of disability includes a work stoppage caused by a spontaneous material change in the employment-related condition without an intervening injury. If the disability results from new exposure to work factors, an appropriate new claim should be filed; see Federal (FECA) Procedure Manual, Part 2 – Claims, *Recurrences*, Chapter 2.1500.3 (January 1995).

It is, as noted above, appellant's burden to submit sufficient evidence to establish her claim. The Board finds that she had not met her burden in this case.

The decisions of the Office of Workers' Compensation Programs dated February 6, 1996 and October 18, 1995 are affirmed.

Dated, Washington, D.C.  
July 21, 1998

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member