

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SCENICA V. SIMMS and U.S. POSTAL SERVICE,
MUNGER POSTAL STATION, Wichita, Kans.

*Docket No. 96-776; Submitted on the Record;
Issued March 6, 1998*

DECISION AND ORDER

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

The issue is whether appellant established that her recurrence of disability was causally related to the accepted employment injury.

The Board has reviewed the case record and finds that appellant has failed to meet her burden of proof in establishing a causal relationship between her current wrist condition and her accepted work injury.

Under the Federal Employees Compensation Act,¹ an employee 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 recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² 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,³ and supports that conclusion with sound medical reasoning.⁴

Section 10.121(b) provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a medical report covering the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's

¹ 5 U.S.C. §§ 8101-8193 (1974).

² *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions, and the prognosis.⁵

Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated, or aggravated by the accepted injury.⁶ In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁷ Further, neither the fact that appellant's condition became apparent during a period of employment nor appellant's belief that his condition was caused by his employment is sufficient to establish a causal relationship.⁸

In this case, appellant, then a 39-year-old clerk, filed a notice of recurrence of disability on August 23, 1995, claiming that she had reinjured her right wrist while pulling and pushing heavy mail cages.⁹

On September 21 and October 6, 1995 the Office of Workers' Compensation Programs requested that appellant provide factual and medical information regarding her recurrence of disability. Appellant responded that she had returned to regular duty on August 18, 1995 and had experienced pain while moving mail cages. She submitted medical reports from Dr. Brian A. Johnson, a Board-certified family practitioner.

On October 24, 1995 the Office denied the claim on the grounds that the medical evidence was insufficient to establish a causal relationship between the claimed recurrence of disability and the accepted work injury. By letter dated November 20, 1995, appellant requested reconsideration, noting that she had another statement from her treating physician, Dr. Johnson, which was being typed, and that she hoped to send it to the Office in a couple of days.

On November 30, 1995 the Office denied appellant's request on the grounds that appellant failed to provide any medical evidence to support a work-related recurrence of disability.¹⁰

⁵ 20 C.F.R. § 10.121(b).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁷ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

⁹ On August 16, 1990 appellant filed a notice of occupational disease, claiming that casing mail had caused numbness and pain in her right wrist and hand. The Office accepted her claim for tendinitis in the right wrist and hand as well as right shoulder impingement syndrome. Appellant received a schedule award for a five percent loss of use of the right upper extremity.

¹⁰ The record contains a letter dated November 28, 1995, enclosing a November 22, 1995 report from Dr. Johnson and a certified mail receipt envelope dated November 29, 1995. On appeal appellant asks the Board to consider Dr. Johnson's November 22, 1995 report, which was received by the Office on December 4, 1995. However, the Board's jurisdiction of a case is limited to reviewing that evidence which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c) Thus, the Board may not consider on appeal evidence not considered by the Office.

The Board finds that Dr. Johnson's August 28 and September 25, 1995 reports are insufficient to establish that appellant's recurrence of disability was related to the August 16, 1990 work injury. In the former report, Dr. Johnson diagnosed carpal tunnel syndrome of the right wrist and recommended that appellant be placed on light duty and refrain from repetitive pushing, pulling, or lifting at work.¹¹ Dr. Johnson's only reference to any previous injury was that appellant told him she had had "trouble with this arm before."

In the latter report, Dr. Johnson stated that nerve conduction studies showed no evidence of carpal tunnel syndrome but indicated mild ulnar neuropathy "of questionable significance," which could have been exacerbated by heavy lifting and pulling. Dr. Johnson mentioned the "chronicity of the problem," but did not relate appellant's current condition to the initial work injury.

On September 29, 1995 Dr. Johnson completed a work capacity evaluation, noting that appellant should limit lifting to 20 pounds and pulling and reaching to 4 to 5 hours a day. Dr. Johnson indicated that appellant had had a previous overuse injury of her wrist from work but provided no further explanation. In none of his reports did Dr. Johnson explain with medical rationale how the diagnosed neuropathy in appellant's right wrist was causally related to the tendinitis condition accepted by the Office in 1990. Nor did appellant submit any evidence of medical treatment during the interim five years.¹²

Despite being informed twice of the deficiencies in the medical evidence, appellant failed to submit the medical evidence necessary to establish a causal connection between her current condition and the accepted work injury. Therefore, the Board finds that the Office properly denied her claim.¹³

¹¹ On August 23, September 12 and October 10, 1995 appellant requested light duty. The employing establishment denied her requests because no light duty was available.

¹² *Sandra Dixon-Mills*, 44 ECAB 882, 885 (1993); see *Robert H. St. Onge*, 43 ECAB 1169, 1175 (1992) (finding that documented evidence of bridging symptoms supported a causal relationship between appellant's recurrence of disability and her original injury).

¹³ See *Jose Hernandez*, 47 ECAB ___ (Docket No. 94-1089, issued January 23, 1996) (finding that despite a request from the Office, appellant failed to submit a rationalized medical opinion showing that the claimed recurrence was related to his employment injury).

The November 30 and October 24, 1995 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
March 6, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member