

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRENDA L. TRUMBLE and U.S. POSTAL SERVICE,
POST OFFICE, Albany, N.Y.

*Docket No. 97-1318; Submitted on the Record;
Issued February 16, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof that she sustained a recurrence of disability on or after July 3, 1995 due to her employment injury, bilateral carpal tunnel syndrome.

The Board finds that the case is not in posture for decision.

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 injury.¹ This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.² Where no such rationale is present, medical evidence is of diminished probative value.³ However, it is well established that proceedings under the Federal Employees' Compensation Act are not adversarial in nature, and while the claimant has the burden to establish entitlement to compensation, the Office of Workers' Compensation Programs shares responsibility in the development of the evidence.⁴

In the present case, the Office accepted that appellant sustained employment-related bilateral carpal tunnel syndrome. Appellant periodically stopped work and received appropriate

¹ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

² *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

³ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

⁴ *Dorothy L. Sidwell*, 36 ECAB 699 (1985); *William J. Cantrell*, 34 ECAB 1233 (1983).

compensation.⁵ Appellant stopped work from October 5, 1994 to July 2, 1995 due to the effects of a nonwork-related vehicular accident. She periodically stopped work after returning to light-duty work on July 3, 1995 and claimed that she sustained a recurrence of disability due to her employment injury.

In support of her recurrence claim, appellant submitted a December 11, 1995 report in which Dr. Seth Greensky, an attending Board-certified orthopedic surgeon, stated:

“In my opinion, within my best degree of medical certainty, the carpal tunnel-like symptoms that she has just complained of are a continuation of the carpal tunnel compensation claim that began in December 1992. I do [not] think that this in any way is related to another etiology, *i.e.*, the motor vehicle accident.

In a report dated August 2, 1996, Dr. Greensky discussed the various causes of carpal tunnel syndrome and noted:

“In that repetitive activity can cause recurrent carpal tunnel syndrome and the likelihood of a single traumatic event causing these symptoms is low to the best of my medical knowledge the continued symptoms she experienced in July 1995 have a much greater chance of being related to recurrent carpal tunnel syndrome than they do to the single traumatic incident involved in the motor vehicle accident.

The Board notes that while none of the reports of Dr. Greensky are completely rationalized, they are consistent in indicating that appellant sustained an employment-related recurrence of disability on or after July 3, 1995, and are not contradicted by any substantial medical or factual evidence of record. Therefore, while the reports are not sufficient to meet appellant’s burden of proof to establish her claim, they raise an uncontroverted inference between appellant’s employment injury and her claimed recurrence of disability, and are sufficient to require the Office to further develop the medical evidence and the case record.⁶

Accordingly, the case will be remanded to the Office for further evidentiary development regarding the issue of whether appellant sustained a recurrence of disability on or after July 3, 1995 due to her employment injury, bilateral carpal tunnel syndrome. The Office should prepare a statement of accepted facts and obtain a medical opinion on this matter. After such development of the case record as the Office deems necessary, an appropriate decision shall be issued.

⁵ Appellant had been working a light-duty position for four hours per week since 1989.

⁶ See *Robert A. Redmond*, 40 ECAB 796, 801 (1989).

The decisions of the Office of Workers' Compensation Programs dated December 2 and June 26, 1996 are set aside and the case remanded to the Office for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.
February 16, 1999

George E. Rivers
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member