

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHARON K. REED and SOCIAL SECURITY ADMINISTRATION,
Golden, CO

*Docket No. 98-597; Submitted on the Record;
Issued October 14, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she had any periods of disability causally related to her employment-related carpal tunnel syndrome.

The Board has duly reviewed the case record and finds that appellant failed to meet her burden of proof.

On January 25, 1995 appellant, then a 50-year-old contact representative, filed an occupational disease claim, alleging that factors of employment caused right hand and wrist pain. Following further development, by letter dated April 18, 1995, the Office of Workers' Compensation Programs accepted that appellant sustained employment-related right carpal tunnel syndrome. The Office informed her that she should submit a Form CA-7, claim for compensation, through the employing establishment and include medical evidence supporting injury-related disability for any period of disability claimed.¹ In response to a June 29, 1997 letter from appellant in which she requested a change in physician, by letter dated July 15, 1997, the Office informed her that the case had been closed and if she was experiencing continued residuals, she would need to file a Form CA-2a, claim for recurrence of disability. This was submitted on July 21, 1997, along with copies of applications for sick leave for intermittent periods.² By letter dated August 20, 1997, the Office informed appellant of the type of evidence needed to support her claim, which was to include a detailed narrative report from her attending physician. In response, appellant submitted a September 18, 1997 report from Dr. Gordon M. Singer, an orthopedic surgeon. By decision dated October 1, 1997, the Office denied the recurrence claim, finding that the medical evidence was insufficient to establish entitlement.

¹ Appellant had previously submitted copies of a number of applications for sick leave due to right wrist pain and medical reports from Dr. William E. Gamble, a Board-certified orthopedic surgeon.

² The sick leave applications covered periods of 1¼ to 4 hours per day and were for intermittent dates from 1994 to 1997.

Appellant timely requested reconsideration and submitted additional medical evidence. By decision dated October 27, 1997, the Office denied appellant's request, finding the medical evidence cumulative. The instant appeal follows.

Under the Federal Employees' Compensation Act³ the term "disability" means incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury. Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn the wages. An employee who has a physical impairment causally related to a federal employment injury, but who nonetheless has the capacity to earn wages she was receiving at the time of injury, has no disability as that term is used in the Act, and whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.⁴

The medical evidence in this case, relevant to the accepted carpal tunnel syndrome, consists of brief office notes from Dr. Gamble, appellant's treating Board-certified orthopedic surgeon, dating from December 12, 1994 to August 8, 1996.⁵ While Dr. Gamble advises that appellant should rest her wrist at work and provided restrictions to her work activity, he did not indicate that she was totally disabled. Furthermore, the employing establishment indicated that appellant's job assignments had been adjusted, based on her doctor's recommendations. The record also contains a September 18, 1997 report from Dr. Singer who found no clinical evidence of carpal tunnel syndrome and diagnosed right wrist changes consistent with advanced rheumatoid arthritis and ulnar nerve irritability exacerbated by writing. In an attached work capacity evaluation, Dr. Singer noted that appellant was wheel-chair bound due to rheumatoid arthritis and provided restrictions to her physical activity. He too did not indicate that she was disabled from work.

The medical evidence is thus insufficient to establish that appellant sustained any disability causally related to her employment-related carpal tunnel syndrome.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Maxine J. Sanders*, 46 ECAB 835 (1995).

⁵ The record also contains reports concerning appellant's nonwork-related arthritis including an August 8, 1983 report from Dr. Miguel Mogyoros, a Board-certified internist, and a January 23, 1992 report from Dr. Gamble who advised that appellant might have to take time off from work due to the arthritis.

The decisions of the Office of Workers' Compensation Programs dated October 27 and October 1, 1997 are hereby affirmed.

Dated, Washington, D.C.
October 14, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member