

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WENDY S. BRYANT and DEPARTMENT OF VETERANS AFFAIRS,
SAGINAW VETERANS HOSPITAL, Saginaw, MI

*Docket No. 99-131; Submitted on the Record;
Issued April 10, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof in establishing that she sustained a recurrence of disability, due to her June 24, 1994 employment injury, beginning January 6, 1995.

This case is on appeal for the second time.¹ The Office of Workers' Compensation Programs accepted appellant's claim for bilateral carpal tunnel syndrome and overuse syndrome. After the June 24, 1994 employment injury, appellant returned to light-duty work with restrictions. On the first appeal, the Board reviewed the March 13 and April 5, 1995 decisions, by which the Office found that the evidence of record failed to establish that appellant sustained a recurrence of disability on November 7, 1994 causally related to the June 24, 1994 employment injury. In the April 5, 1995 decision, the Office denied appellant's request for modification.

On January 16, 1995 appellant filed a claim for a recurrence of disability commencing January 6, 1995 causally related to the June 24, 1994 employment injury. Appellant stated that she had pain since the original injury, that she never completely healed and the pain had intensified because of the repetitive movement of her job duties involving moving her wrists and arms all day. By letter dated May 9, 1997, appellant, through her attorney, stated that after the January 6, 1995 recurrence of disability, appellant returned to work on November 3, 1995. He noted that the Office approved an award of disability for appellant from March 17 through April 16, 1997. Appellant submitted medical evidence dated from March 6, 1995 through April 23, 1997, from various doctors to support her claim.

¹ Docket No. 95-2106 (issued December 20, 1996). The facts and history surrounding the prior appeal are set forth in the initial decision and are hereby incorporated by reference.

By decision dated September 1, 1998, the Office denied the claim, stating that the evidence of record did not establish a causal relation between the June 24, 1994 employment injury and the alleged recurrence of disability on January 6, 1995.

The Board has duly reviewed the case record in the present appeal and finds that the Office properly determined that appellant did not meet her burden of proof in establishing that she sustained a recurrence of disability, due to her June 24, 1994 employment injury, beginning January 6, 1995.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establish that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and to show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.² 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 was causally related to the employment injury and supports that conclusion with sound medical reasoning.³

In the present case, appellant has not submitted any medical evidence showing that the alleged recurrence of disability occurring on January 6, 1995 is causally related to the June 24, 1994 employment injury. She also has not shown that the nature and extent of her injury worsened due to the June 24, 1994 employment injury or that her light-duty job requirements changed. Appellant submitted medical evidence from several doctors dated from March 6, 1995 through April 23, 1997, but none of this evidence, while it addresses that either appellant had wrist or back problems, addresses the cause of the alleged January 6, 1995 recurrence of disability and most of the evidence does not mention a specific date of recurrence or the June 24, 1994 employment injury. In a couple of duty status reports dated April 4 and November 9, 1995, respectively, appellant's treating physician, Dr. Michael J. Wolohan, a Board-certified orthopedic surgeon, indicated that appellant sustained a recurrence on January 6, 1995 and recommended restrictions. In an attending physician's report, Form CA-20, dated November 9, 1995, Dr. Wolohan noted that appellant sustained a "a recurrence of injury" on January 6, 1995 and appellant stated that it was due to handling a lot of food service trays. He diagnosed bilateral carpal tunnel syndrome. When asked if the condition was caused or aggravated by appellant's employment activity, Dr. Wolohan checked the "Yes" box that it was related and stated that it was aggravated by repetitive lifting, pushing, tugging, twisting or turning with her wrists. He stated that appellant was totally disabled from April 4, 1995 and partially disabled from

² *Mary A. Howard*, 45 ECAB 464 (1996).

³ *See Nicolea Bruso*, 33 ECAB 1138 (1982).

October 4, 1994 through November 6, 1995. In his report dated May 16, 1995, Dr. Wolohan reiterated his diagnoses of bilateral carpal tunnel syndrome and stated:

“With regard to specific etiology, it is often difficult to say in these particular type of cases. Certainly, repetitive lifting, pushing, pulling, twisting [and] turning activities with the wrist can aggravate carpal tunnel syndrome. It also can be causally related depending on the circumstances of the workplace and whether or not there are any other variables in the equation.”

His opinion, however, is not probative as it is speculative and equivocal as to whether appellant’s employment caused her condition.

In his report dated May 16, 1995, Dr. Sanjeev Prakash, another treating physician and a Board-certified rheumatologist, diagnosed bilateral capsulitis of shoulders, lateral and medial epicondylitis at the elbows and carpal tunnel syndrome. He stated the “[c]ombination of these findings in upper extremities would indicate that all these are due to repetitive strain injury.” Dr. Prakash’s opinion is not probative, however, because he made no reference to the alleged January 6, 1995 recurrence of disability of the June 24, 1994 employment injury and contains no rationalized opinion relating her current condition to the June 24, 1994 employment injury.

As appellant has presented no rationalized medical evidence establishing that the claimed recurrence of disability occurring on January 6, 1995 is causally related to the June 24, 1994 employment injury, she has failed to meet her burden of proof that she sustained a recurrence of disability, as alleged.

The decision of the Office of Workers’ Compensation Programs dated September 1, 1998 is hereby affirmed.

Dated, Washington, D.C.
April 10, 2000

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member