

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SHIRLEY A. BURTON and U.S. POSTAL SERVICE,  
POST OFFICE, Royal Oak, MI

*Docket No. 99-1087; Submitted on the Record;  
Issued August 9, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability on or about July 20, 1998 that was causally related to her employment injury of March 4, 1997.

On March 4, 1997 appellant, a distribution clerk, sustained an injury while reaching and lifting in the performance of her duties. She felt pain in her back and in her left leg down to her toes. The Office of Workers' Compensation Programs accepted her claim for the condition of low back strain. Appellant sustained a recurrence of disability on April 22, 1997, which the Office accepted as causally related to the March 4, 1997 injury. She returned to work with restrictions. A computerized axial tomography (CAT) scan on May 6, 1997 showed minimal bulging of the L4-5 disc.

On May 7, 1997 appellant sustained another injury while in the performance of her duties when she moved a container. She missed work on May 9, 1997 but returned on May 12, 1997. The Office also accepted this claim for low back strain.

On July 22, 1998 appellant filed a claim asserting that she sustained a recurrence of disability on or about July 20, 1998 as a result of her March 4, 1997 employment injury.

To support her claim, appellant submitted an August 26, 1998 form report from her attending physician, Dr. Mia Durham, a specialist in internal medicine, who reported a history of chronic low back pain, a flare up since July 20, 1998 and lower back pain shooting down the back of the left leg. She also noted a disc bulge at L4-5. Dr. Durham related her findings and diagnosed chronic low back pain with acute flare with left leg sciatica. She indicated that appellant was totally disabled from July 20 through August 6, 1998. To the question, "Do you believe the condition found was caused or aggravated by an employment activity?" Dr. Durham responded, "unknown."

On September 1, 1998 appellant filed a claim for compensation on account of traumatic injury seeking compensation for wage loss from July 20 through August 16, 1998.

In a narrative report dated October 20, 1998, Dr. Durham related appellant's history and medical course. She had seen appellant several times from October 1997 to July 1998 for chronic low back pain and the problems she was continuing to have with her lower back. Appellant was continuing to have low back pain, muscle spasms, pain radiating down her leg and numbness. Dr. Durham stated: "She was continuing to do her home exercises which do help, but because of her job which consists of sitting and standing for prolonged periods this would also aggravate her lower back. She noticed that, if she did not keep a correct posture, this would definitely aggravate her condition." Dr. Durham reported that appellant should be permanently on restrictions of no lifting greater than 10 pounds, pushing and pulling greater than 10 pounds or twisting and bending "since she continues to have chronic low back pain when required to do those activities at work."

In a decision dated October 26, 1998, the Office denied appellant's claim of recurrence.

Appellant requested reconsideration and submitted a November 13, 1998 report from Dr. Durham, who stated as follows:

"[Appellant] sustained an injury on March 4, 1997 which caused low back pain radiating down her left leg. Patient continued having pain at which time I ordered a CAT scan of the lumbosacral spine on May 6, 1997. CAT scan did show [appellant's] L4-5 disc bulge. This bulging disc was applying pressure on the sciatic nerve. This is a result of her injury on March 4, 1997.

"After careful review of [appellant's] medical records, I find that the patient's disability on July 20 through August 16, 1998 and her present condition is causally and directly related to her injury sustained on March 4, 1997."

In a decision dated December 1, 1998, the Office reviewed the merits of appellant's claim and denied modification of its prior decision.

The Board finds that the medical evidence of record is insufficient to establish that appellant sustained a recurrence of disability on or about July 20, 1998 that was causally related to her employment injury of March 4, 1997.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires 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 who supports that conclusion with sound medical reasoning.<sup>1</sup>

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<sup>1</sup> *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

In her report of November 13, 1998, Dr. Durham, appellant's attending physician, concluded that appellant's current condition and disability from July 20 through August 16, 1998 were causally related to her employment injury of March 4, 1997. However, she did not support her conclusion with sound medical reasoning. Dr. Durham did not explain how the incident that occurred at work on March 4, 1997 caused or contributed to the bulging disc at L4-5. The Office accepted that appellant sustained a low back strain that day but has not accepted that the incident caused a bulging disc at L4-5. Dr. Durham did not describe the nature of this medical condition or explain how the incident of March 4, 1997 either precipitated or aggravated appellant's bulging disc.

Dr. Durham also did not explain how the accepted condition led to appellant's disability beginning July 20, 1998. In her October 20, 1998 report, she indicated that further exposure to such employment factors as prolonged sitting and standing; incorrect posture; lifting, pushing and pulling 10 pounds; twisting and bending aggravated appellant's low back condition. Such a history suggests a new injury rather than a spontaneous recurrence of disability from the accepted injury of March 4, 1997. Although Dr. Durham's opinion is generally supportive of appellant's claim, it is of diminished probative value and is insufficient to discharge appellant's burden of proof.<sup>2</sup> The Board will therefore affirm the denial of appellant's claim.

The December 1 and October 26, 1998 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.  
August 9, 2000

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

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<sup>2</sup> The Board has held that medical conclusions unsupported by rationale are of little probative value. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).