

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA CROPPER and U.S. POSTAL SERVICE,
POST OFFICE, Long Beach, MS

*Docket No. 99-2338; Submitted on the Record;
Issued December 8, 2000*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability causally related to her accepted employment injury.

The Board has duly reviewed the case on appeal and finds that appellant failed to meet her burden of proof in establishing that she sustained a recurrence of disability causally related to her accepted employment injury.

Appellant, a distribution/window clerk, filed a claim alleging that on May 16, 1994 she hurt her shoulder when a letter sorting case fell on her. The Office of Workers' Compensation Programs accepted appellant's claim for right shoulder strain on July 1, 1994 and lumbosacral strain on August 1, 1994.

Appellant filed a notice of recurrence of disability on December 21, 1995. By decision dated March 18, 1996, the Office denied appellant's claim finding that she failed to submit medical evidence of a causal relationship between her accepted employment injuries and her current condition. Appellant requested an oral hearing on April 16, 1996. By decision dated March 30, 1998, the hearing representative affirmed the Office's March 18, 1996 decision. Appellant requested reconsideration on February 26, 1999 and by decision dated April 6, 1999, the Office denied modification of its prior decisions.

Appellant has the burden of establishing by the weight of the substantial, reliable, and probative evidence, a causal relationship between her recurrence of disability commencing November 8, 1995 and her May 16, 1994 employment injury.¹ This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and

¹ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.²

In this case, appellant indicated that she returned to full duty on August 18, 1994, sustained a recurrence of disability on November 8, 1995 and stopped work on November 15, 1995. Appellant stated that she experienced blurred vision, numbness in her legs and arms, muscle spasms, tension and shoulder pain as well as abdominal distress, temporomandibular joint (TMJ) dysfunction, headaches and loss of sleep.

Appellant submitted treatment notes from Dr. Ronald A. Graham, a general practitioner, dated November 15 through December 19, 1995. Dr. Graham diagnosed ilio tibial band syndrome and provided appellant with an injection. He noted appellant's TMJ and tension. Dr. Graham did not provide an opinion on the causal relationship between these conditions and appellant's employment injuries.

In a report dated August 26, 1998, Dr. Graham diagnosed preexisting scoliosis and stated that appellant had a chronic recurrent condition of ilio tibial band syndrome. Dr. Graham stated, "I would feel that that condition would be an aggravation of the preexisting tightness of the ilio tibial band syndrome. That aggravation was reportedly a May 16, 1994 work injury. I feel that she will have recurrent episodes because of preexisting scoliosis and the existence of ilio tibial band syndrome in scoliosis patients is not unusual." Dr. Graham stated that any immune system disorder cannot be associated with her traumatic injury.

These reports are not sufficient to meet appellant's burden of proof in establishing a recurrence of disability in November 1995 causally related to her 1994 employment injuries. The Office accepted appellant's claim for lumbosacral and shoulder strains. Dr. Graham did not provide a clear opinion on the causal relationship between appellant's accepted employment injuries and her diagnosed conditions. He indicated that appellant had an aggravation of her underlying ilio tibial band syndrome due to the employment injury, but did not discuss the mechanism of injury or any disability related to this aggravation. Therefore, his reports are not sufficient to meet appellant's burden of proof.

Appellant also submitted a series of reports from Dr. Beverly W. Myers, a Board-certified internist, who treated appellant beginning on July 30, 1996 and diagnosed fibromyalgia on August 22, 1996. In a report dated January 20, 1998, Dr. Myers stated:

"We have spent quite a bit of time going over fibromyalgia and whether it is related to job or injury, and it has been reported to begin after injury in other patients. I do not know the etiology of the fibromyalgia, but once it starts it is usually pretty much present all the time without a cure, but in [appellant's] case, I feel that her stress at her job is continuing to keep her [fibromyalgia] active and I would recommend for her to discontinue work."

² See *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

Dr. Myers did not provide an opinion that appellant's fibromyalgia is causally related to her accepted employment injuries. Therefore, her report does not support a recurrence of disability due to appellant's accepted employment injuries. Dr. Myers indicated that appellant's current condition was aggravated by work. However, the Office has not issued a final decision addressing the aggravation of this condition by appellant's work and the Board will not address this issue on appeal.³

As there is no medical evidence in the record providing an opinion that appellant sustained a recurrence of disability on or after November 8, 1995 due to her accepted employment-related injuries, appellant failed to meet her burden of proof and the Office properly denied her claim for recurrence of disability.

The April 6, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 8, 2000

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

³ 20 C.F.R. § 501.2(c).