

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA M. EVANS and U.S. POSTAL SERVICE,
NORTH SHORE BRANCH POST OFFICE, Euclid, OH

*Docket No. 98-1593; Submitted on the Record;
Issued January 5, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she had a recurrence of disability from July 2 to July 8, 1996 causally related to her February 7, 1995 employment injury to her right ankle.

On February 7, 1995 appellant, then a 43-year-old letter carrier, was walking down icy steps while delivering mail and injured her right ankle. The Office of Workers' Compensation Programs accepted appellant's claim for a right ankle sprain. She did not stop working but was assigned light duty. On July 12, 1996 appellant filed a claim for recurrence of disability, which occurred on June 27, 1996. She stopped working on July 2, 1996 and returned to work on July 8, 1996.

In a September 23, 1996 decision, the Office denied appellant's claim on the grounds that the evidence of record failed to demonstrate a causal relationship between the February 7, 1995 employment injury and the claimed disability of July 2, 1996. In an October 1, 1996 letter, appellant, through her attorney, requested a hearing before an Office hearing representative, which was held on January 21, 1998. In an April 7, 1998 report, the Office hearing representative found that the weight of medical opinion evidence did not attribute appellant's condition after July 2, 1996 to the February 7, 1995 employment injury. She further noted that the medical evidence of record established that appellant had no disabling residuals due to her accepted employment injury.

The Board finds that appellant has not met her burden of proof in establishing that she had a recurrence of disability due to the February 7, 1995 employment injury.

When an employee who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that she 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 show that 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.¹

Appellant claimed that she had a recurrence of disability due to her right ankle condition particularly after her work activities on June 27, 1996. The employing establishment offered appellant light duty in December 1995, which she accepted. The light duty given to appellant required her to case mail, deliver mail while performing three hours of walking, pick up and delivery of express and priority mail, revising and completing class labels, processing mark-up mail, collecting and culling outgoing mail, answering customer inquiries and complaints on the telephone and other duties as assigned. In an August 12, 1996 letter, appellant indicated that on June 27, 1996 she had to open and prepare 20 sacks of registered mail to meet the pick up time, which required her to stand for an extended period to complete the job. She noted that she had to answer the customer bell which required her to walk a fair distance from the accountable unit to retrieve letters or packages. Appellant stated that she had to squat and search for several packages on the bottom shelves. She concluded that this duty, combined with the excessive standing and walking that day, brought pressure, pain and swelling to her ankle and caused her to stop working. The duties described by appellant are different in some degree from the duties described in the December 1995 offer of light duty. Appellant, however, did not submit any medical evidence which directly related her recurrence of disability from July 2 through July 8, 1996 to her February 7, 1995 employment injury.

The medical evidence of record, for the most part, was submitted prior to appellant's claim for a recurrence of disability. In a January 5, 1996 report, Dr. John P. Ellis, a podiatrist, stated that since the February 7, 1995 employment injury appellant had suffered from chronic pain and swelling of the right foot and ankle due to the employment injury. He recommended physical therapy. In a handwritten note of the same date, Dr. Ellis indicated that he had found excessive swelling and tenderness in appellant's right ankle, which included weakness and instability. He recommended that appellant stay off her feet pending further evaluation.

The employing establishment referred appellant to Dr. Satish Mahna, a general practitioner, for a fitness-for-duty evaluation. In a January 20, 1996 report, Dr. Mahna indicated that appellant's diagnosis included resolved right ankle sprain. He noted the right ankle showed full range of motion with no discomfort or crepitus. Dr. Mahna reported appellant had no deformity, tenderness, effusion or inflammation of the ankle. He concluded appellant had no restrictions in regard to the right ankle and could resume her regular duties.

The Office referred appellant, together with the statement of accepted facts and the case record, to Dr. Sheldon Kaffen, a Board-certified orthopedic surgeon, for an examination and second opinion. In a June 3, 1996 report, Dr. Kaffen indicated that x-rays of the right ankle were within normal limits. In examination, he found tenderness over the anterolateral joint line and laterally over the distal fibula. He found no swelling. Dr. Kaffen noted that appellant had a full range of motion with pain on passive inversion. He concluded that appellant had subjective residuals of the February 7, 1995 employment injury consisting of pain on the lateral aspect of

¹ *George DePasquale*, 39 ECAB 295 (1987); *Terry R. Hedman*, 38 ECAB 222 (1986).

the ankle with weight bearing. Dr. Kaffen stated that, because of a lack of objective physical findings, appellant was capable of performing the activities of a letter carrier. This report shows that appellant's right ankle condition was no longer causing disability from her regular-duty position as a letter carrier prior to her filing of a claim for a recurrence of disability.

The only medical report submitted after appellant filed her claim for a recurrence of disability was Dr. Ellis' July 30, 1996 report. He indicated that appellant had been receiving physical therapy for extensor tendinitis, ankle joint capsulitis and edema of the right ankle and foot. Dr. Ellis stated appellant strained her ankle while performing her duties as a letter carrier. He did not discuss whether appellant's ankle condition was still related to the February 7, 1995 employment injury or whether appellant had a recurrence of disability due to her ankle condition. Dr. Ellis did not present any rationale in support of his report. The report, therefore, has limited probative value and is insufficient to show that appellant had any recurrence of disability due to the employment injury of February 7, 1995. Appellant, therefore, has not met her burden of proof.

The decision of the Office of Workers' Compensation Programs, dated April 7, 1998, is hereby affirmed.

Dated, Washington, D.C.
January 5, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member