

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSE RODRIGUEZ and U.S. POSTAL SERVICE,
POST OFFICE, Denver, CO

*Docket No. 99-427; Submitted on the Record;
Issued July 27, 2000*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he sustained a recurrence of disability, due to his April 29, 1994 employment injury, beginning March 28, 1997.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the May 1, 1998 decision of the Office of Workers' Compensation Programs' hearing representative, finalized on May 1, 1998 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.¹

By letter dated August 31, 1998, appellant requested reconsideration of the Office's decision and submitted additional evidence consisting of the report of his treating physician, Dr. Schmidt, dated August 6, 1998. In his report, he noted that appellant underwent a carpal tunnel release "with excellent relief of his median neuropathy." Dr. Schmidt stated that subsequent to that "it has become increasingly obvious that the tendinitis that caused his carpal tunnel syndrome is also affecting the tendons more distally at the A1 pulleys." He stated that appellant currently had tenderness in all four A1 pulleys with some evidence of triggering and locking. Dr. Schmidt stated:

"I believe that both the carpal tunnel syndrome and this stenosing tenosynovitis at the A1 pulleys are a result of tendinitis of the tendons of the right upper extremity and [that] he requires A1 pulley releases to relieve that condition. The reason it

¹ The evidence appellant submitted consisting of the medical reports from his treating physician, Dr. Douglas R. Schmidt, a Board-certified plastic surgeon with a specialty in hand surgery, dated approximately from May 17, 1995 through March 9, 1998 did not contain a rationalized medical opinion explaining how appellant's continuing bilateral tendinitis of the shoulders was related to the April 29, 1994 employment injury; *see Dominic M. DeScala*, 37 ECAB 369 (1986).

took longer for the symptoms to show up in the A1 pulleys than the wrist is that there is no nerve beside the pulley to cause early symptoms. Therefore, the rubbing and swelling have to become fairly severe before symptoms develop. I believe that all of his problems are related to tendinitis of the forearm, wrist and hand on his right side.

“While he has more significant and severe symptoms on his right hand, he has similar problems with the left hand with tenderness of the A1 pulleys of all four fingers of both hands and some locking.”

By decision dated September 8, 1998, the Office denied appellant’s request for reconsideration.

The Board finds that the evidence appellant submitted does not establish that a recurrence of disability occurred on March 28, 1997 due to the April 29, 1994 employment injury.

An individual who claims a recurrence of disability, due to an accepted employment-related injury, has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.² When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he 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 he cannot perform such light duty.³ As part of this burden, the employee must show a change in the nature and extent of the light-duty job requirements or a change in the nature and extent of the injury-related condition.⁴ 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 is causally related to the employment injury and supports that conclusion with sound medical reasoning.⁵

Dr. Schmidt’s August 6, 1998 report does not contain a rationalized medical opinion explaining how the tendinitis in appellant’s hands resulted from the April 29, 1994 employment injury and does not specifically refer to a recurrence of disability occurring on March 28, 1997. Although Dr. Schmidt stated that he believed all of appellant’s problems were related to tendinitis of the forearm, wrist and hand on his right side, he did not specifically explain how appellant’s condition was related to his employment or the accepted condition of bilateral tendinitis in the shoulders. Appellant has, therefore, not established his claim.

² *Dominic M. DeScala, supra* note 1; *Bobby Melton*, 33 ECAB 1305 (1982).

³ *George DePasquale*, 39 ECAB 295, 304; *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

⁴ *Id.*

⁵ *See Nicolea Brusio*, 33 ECAB 1138 (1982).

The decisions of the Office of Workers' Compensation Programs dated September 8 and May 1, 1998 are hereby affirmed.

Dated, Washington, D.C.
July 27, 2000

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member