

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SARAH RIVERA and U.S. POSTAL SERVICE,
MORGAN STATION, New York, NY

*Docket No. 98-1828; Submitted on the Record;
Issued March 20, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she had a recurrence of disability after June 10, 1997 due to employment-related conditions.

On August 8, 1996 appellant, then a 36-year-old flat sorter machine operator, filed a claim for carpal tunnel syndrome of the right wrist which she related to keying mail. She stopped working on August 9, 1996. The Office of Workers' Compensation Programs accepted appellant's claim for a ganglion cyst of the right wrist and paid temporary total disability compensation for the period August 9, 1996 through January 21, 1997. She returned to work at a light-duty position on February 19, 1997 but stopped again the next day. The Office resumed payment of temporary total disability compensation. Appellant returned to a limited-duty position on May 5, 1997. She stopped working on June 9, 1997 and filed a claim for compensation, stating that she had pain in both arms. The Office accepted appellant's claim for carpal tunnel syndrome of the right arm. In an April 20, 1998 decision, the Office denied appellant's claim for a recurrence of disability, effective June 10, 1997, on the grounds that the evidence of record did not establish either a change in the nature or extent of her employment-related disability or in the nature or extent of her light-duty position.

The Board finds that the case is not in posture for decision.

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

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

In an October 15, 1996 report, Dr. Ignatius D. Roger, a Board-certified plastic surgeon, stated that he first examined appellant on July 16, 1996 for a right wrist ganglion. He noted that appellant had a positive Tinel's sign at the carpal and cubital tunnels with a positive Phalen's test and compression tests. A January 9, 1997 electromyogram was compatible with mild carpal tunnel syndrome involving the right wrist. In a February 22, 1997 report, Dr. Roger indicated that appellant had positive Tinel's signs at the carpal tunnel of both arms and positive Phalen's and compression tests bilaterally. In a November 17, 1997 report, he indicated that appellant had returned to work but only for a limited period. Dr. Roger noted that she stopped working on June 9, 1997 with increasing pain in both hands radiating in the ulnar distribution. He stated that appellant currently manifested evidence of bilateral carpal and cubital tunnel syndromes, including bilaterally positive Phalen's and compression tests, demonstrable Tinel's sign at both the carpal and cubital tunnels bilaterally, diminished sensation in the volar pads in the median and ulnar nerve distributions and slight atrophy of the right thenar musculature. Dr. Roger added that appellant complained of symptoms of paresthesia and impaired strength consistent with bilateral carpal and cubital tunnel syndromes. He concluded that these conditions were causally related to appellant's activities in her daily duties at work. Dr. Rogers' reports, particularly the November 14, 1997 report, provide a detailed description of appellant's condition and related it to her employment. His reports are not contradicted by any other medical evidence of record. While these reports are insufficient to satisfy appellant's burden of proof, they are sufficient to require further development of the record.² The case must therefore be remanded for such development.

On remand, the Office should refer appellant, together with a statement of accepted facts and the case record, to an appropriate specialist for an examination. The specialist should describe appellant's examination and give a complete diagnosis of his condition. He should also provide a rationalized opinion on whether appellant's condition was causally related to factors of her employment and whether her disability after June 9, 1997 was causally related to employment-related conditions. The specialist should indicate whether appellant remains disabled due to any employment-related conditions. After further development as it may find necessary, the Office should issue a *de novo* decision.

² *John J. Carlone*, 41 ECAB 354 (1989)

The decision of the Office of Workers' Compensation Programs, dated April 20, 1998, is hereby set aside and the case remanded for further development as set forth in this decision.

Dated, Washington, D.C.
March 20, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member