

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TERRENCE T. SHORTS, SR. and U.S. POSTAL SERVICE,
POST OFFICE, Lorain, OH

*Docket No. 99-366; Submitted on the Record;
Issued May 8, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant's recurrence of disability commencing May 22, 1998 is causally related to his accepted employment injury.

On January 16, 1996 appellant, then a 45-year-old letter carrier, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he suffered from "total numbness and tingling in both hands" as a result of his employment. On June 12, 1996 the Office of Workers' Compensation Programs accepted appellant's claim for bilateral carpal tunnel syndrome.

On August 6, 1997 appellant filed a notice of recurrence of disability and claim for continuation of pay/compensation (Form CA-2a) alleging a recurrence commencing July 14, 1997.¹ The Office accepted this claim for bilateral carpal tunnel syndrome with releases on September 12, 1997.

On May 22, 1998 appellant filed another notice of recurrence of disability and claim for continuation of pay/compensation alleging a recurrence commencing on May 22, 1998. Appellant submitted with the claim a note dated May 22, 1998 from Dr. Norberto Marfori, a Board-certified plastic surgeon, indicating that appellant was to engage in "no work for three weeks due to bilateral ulnar neuropathy and will have three weeks of hand therapy."

On June 5, 1998 the Office submitted questions to Dr. Marfori. The Office received a handwritten unsigned response in which Dr. Marfori indicated that appellant needed hand therapy as he started to have pain and numbness again, and that he was totally disabled from May 22 to June 9, 1998. Dr. Marfori also submitted a disability certificate dated June 8, 1998 wherein he noted that appellant was totally incapacitated from May 22 to June 9, 1998, but noted

¹ Appellant had two carpal tunnel release operations, one on his left wrist on July 15, 1997, followed by his right wrist on August 19, 1997.

that appellant should be able to return to work in a light-duty assignment with limited use of his hands on June 9, 1998.

By letter dated July 1, 1998, the Office requested further information from appellant. He never responded to this request.

By decision dated August 4, 1998, the Office denied appellant's request for recurrence, finding that the evidence failed to establish that the claimed recurrence of May 22, 1998 was causally related to his accepted employment condition.²

The Board finds that appellant failed to meet his burden of proof in establishing that he sustained a recurrence of disability causally related to his accepted employment-related carpal tunnel syndrome.

When appellant claims a recurrence of disability to an accepted employment-related injury, he has the burden to establish by the weight of the reliable probative evidence that the recurrence of the condition for which he seeks compensation is causally related to the accepted employment injury.³ As part of this burden, the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition⁴ and supports that conclusion with sound medical reasoning.⁵

In the instant case, no medical opinion establishes a relationship between appellant's condition after May 22, 1998 and his accepted employment-related condition. The medical evidence submitted after this claim was filed does not address causal relationship at all. The notes of Dr. Manfori merely indicate that appellant was totally incapacitated between May 22 and June 9, 1998, as appellant was starting to have pain and numbness in his hands again. No connection is made between this condition and appellant's prior accepted employment-related carpal tunnel syndrome. Consequently, appellant has not met his burden of proof as he has not submitted a report containing a physician's opinion, supported by medical rationale and based on a complete history, explaining how and why her recurrence of disability commencing May 22, 1998 is causally related to the accepted employment injury.⁶

² The Board notes that appellant filed a timely request for an oral hearing by letter dated August 19, 1998. No action was taken on this request prior to appellant's filing of this appeal.

³ *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

⁴ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁵ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

⁶ The Board may not consider the new evidence submitted by appellant after the Office issued its August 4, 1998 decision as the Board's jurisdiction is limited to that evidence which was before the Office at the time it rendered the final decision. However, the Board notes that because it is deciding appellant's case on the merits, appellant has one year from the date of this decision to file a timely request to the Office for reconsideration under section 8128 of the Federal Employees' Compensation Act. 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated August 4, 1998 is affirmed.

Dated, Washington, D.C.
May 8, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member