

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MERLENE FELDMAN and U.S. POSTAL SERVICE,
POST OFFICE, Atlanta, GA

*Docket No. 99-552; Submitted on the Record;
Issued May 24, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established a recurrence of disability causally related to her accepted employment injuries.

In the present case, the Office of Workers' Compensation Programs accepted that appellant, a distribution clerk, sustained bilateral carpal tunnel syndrome causally related to her federal employment.¹ The record indicates that appellant returned to a light-duty, full-time position on February 2, 1998. On February 17, 1998 appellant began working four hours per day, and then stopped working on March 9, 1998.

On March 31, 1998 appellant filed a notice of recurrence of disability (Form CA-2a) commencing March 9, 1998.

By decision dated August 13, 1998, the Office denied appellant's claim for a recurrence of disability.

The Board has reviewed the record and finds that appellant has not established a recurrence of disability.

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 establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.²

¹ The Office also accepted an unidentified right shoulder condition resulting in surgery on July 31, 1997.

² *Terry R. Hedman*, 38 ECAB 222 (1986).

In the present case, the record indicates that appellant did return to work in a full-time, light-duty position on February 2, 1998. On February 17, 1998 she began working at four hours. It is appellant's burden of proof to establish entitlement to four hours of compensation during this period.³ It is also appellant's burden to establish a recurrence of total disability commencing March 9, 1998. As the Office advised appellant by letter dated March 26, 1998 and in the August 13, 1998 decision, a recurrence of disability claim is appropriate when an accepted employment injury becomes disabling without intervening incidents.⁴

In the present case, the record does not contain probative medical evidence to establish a recurrence of disability, either for total disability as of March 9, 1998, or four hours of disability during the period February 17 to March 6, 1998.

In a report dated February 6, 1998, Dr. Jim Roderique, a surgeon, indicated that appellant should reduce rapid fine manipulation, and could return to work on February 7, 1998. In a form report (Form CA-20a) dated February 25, 1998, Dr. Roderique indicated that appellant could work four hours per day as of February 7, 1998. He checked a box "yes" that appellant's condition was employment related, but he did not provide further explanation or specifically discuss appellant's condition as of February 17, 1998. The checking of a box "yes" in a form report, without additional explanation or rationale, is of little probative value.⁵

In a report dated March 9, 1998, Dr. Roderique diagnosed status post carpal tunnel syndrome and stated that appellant's symptoms were worsening. He did not provide a reasoned medical opinion on causal relationship between any disability and the accepted employment injuries.

In a report dated March 26, 1998, Dr. Roderique explained that appellant had complained about pain in both hands particularly when sorting mail and reaching overhead, since her return to work. He stated that appellant was seen on February 20, 1998 and "her symptoms seemed to be worsening," so he recommended four hours per day of work. Dr. Roderique noted that on March 9, 1998 appellant still complained about rapid movement of the hands in sorting mail, and he did not believe that "continuing the activity which seemed to worsen her symptoms" would be a wise move and he placed her off work. While this report may be relevant to a claim for an aggravation of her condition caused by the light-duty job, it does not support a claim for a spontaneous recurrence of disability.

The Board finds that the record does not contain a reasoned medical opinion, based on a complete background, establishing a recurrence of disability on March 9, 1998, nor a recurrence

³ Appellant did not claim compensation from February 17 to March 6, 1998 on the Form CA-2a, but appellant did file a CA-8 (claim for continuing compensation) during the period February 20 to 28, 1998.

⁴ A recurrence of disability includes a work stoppage caused by a spontaneous material change in the employment-related condition without an intervening injury. If the disability results from new exposure to work factors, an appropriate new claim should be filed; *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (January 1995).

⁵ *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

of four hours of disability commencing February 17, 1998. Accordingly, the Board finds that appellant has not met her burden of proof and the Office properly denied the claim in this case.

The case record indicates that a decision was issued on November 18, 1998 from the Office's Branch of Hearings and Review. It is well established that the Board and the Office may not have concurrent jurisdiction over the same case, and those Office decisions which change the status of the decision on appeal are null and void.⁶ The November 18, 1998 was issued after appellant filed her appeal with the Board in this case, and therefore it is null and void.

The decision of the Office of Workers' Compensation Programs dated August 13, 1998 is affirmed.

Dated, Washington, D.C.
May 24, 2000

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ *Douglas E. Billings*, 41 ECAB 880, 895 (1990).