

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KARLENE M. GIBBS and U.S. POSTAL SERVICE,
POST OFFICE, Brooklyn, OH

*Docket No. 00-1506; Submitted on the Record;
Issued August 20, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a recurrence of disability on or after April 19, 1999, causally related to her November 17, 1998 employment injury.

On November 17, 1998 appellant, then a 51-year-old letter carrier, strained her right wrist while casing mail at an apartment building. Her claim was accepted but she did not stop work.¹

On April 22, 1999 appellant filed a recurrence of disability claim alleging that her supervisors repeatedly ordered her to perform tasks beyond her medical restrictions and limitations causing continuous pain and burning in her right wrist, shoulder and three of her fingers. Appellant stopped work on April 20, 1999 and returned to limited duty on April 26, 1999.² She retired on disability effective July 31, 1999.

In an attached statement, appellant asserted that Laura Leverette, her supervisor, ordered her to drive a truck, which required the use of a right-handed brake and shoulder strap. She alleged that the employing establishment ignored or undermined her medical restrictions and limitations by calling her physician and having a nurse call her at home. Appellant stated that, on April 19, 1999, her right wrist became progressively painful but she continued working because she feared that management would harass her. She alleged that, on April 20, 1999, a manager advised her that she would not receive continuation of pay and should use sick leave that would be reimbursed.

To support her claim, appellant submitted duty status reports dated January 4 to April 19, 1999 in which Dr. William H. Seitz, a Board-certified orthopedic surgeon, diagnosed a strained inflamed right wrist.

¹ The record shows that appellant had a light-duty assignment prior to her November 17, 1998 employment injury.

² The record contains a limited-duty job offer dated April 20, 1999.

In a note dated April 19, 1999, Dr. Seitz advised that appellant was totally disabled until April 26, 1999.

In a statement dated April 20, 1999, the employing establishment controverted appellant's claim and alleged that she dictated her work restrictions to her physician. The employing establishment further alleged that appellant was provided with limited-duty work since her claim was accepted and that her medical restrictions had not been violated. The statement noted that the truck is an ergonomically-designed vehicle with power steering.

By letter dated May 10, 1999, the Office of Workers' Compensation Programs requested that appellant submit additional factual information to support her claim and allowed her 30 days within which to respond to its request.

By letter dated May 10, 1999, the Office requested a rationalized medical report from Dr. Seitz and provided him with a statement of accepted facts and list of questions.

In a February 15, 1999 report, Dr. Seitz opined that appellant was unable to fulfill her job requirements due to severe pain throughout her right upper extremity. He stated: "I believe that given her lunotriquetral ligament rupture and median nerve compression, as well as rotator cuff impingement and rotator cuff tear, despite surgical reconstruction, she has not been able to achieve an adequate level of recovery to be able to carry out her duties." Dr. Seitz stated that appellant's prognosis to return to full duty was poor and that, based upon her lack of progress, her work restrictions would be in place for two years. He diagnosed right lunotriquetral ligament rupture, median nerve wrist compression and right shoulder impingement with rotator cuff tear.³

In a statement dated April 29, 1999, Ms. Leverette, appellant's supervisor, described appellant's job duties and stated that she had not worked overtime since November 17, 1999. She added that appellant claimed that she could not drive a truck with power steering but could drive a Jeep without power steering. Ms. Leverette stated:

"[Appellant] is a very good worker as long as it [i]s what she wants to do. If she does n[o]t like an assignment she will then remind you of her limitations. Example, she was asked to take out a piece of express [mail] and she refused because it was too cold that day per her restrictions, but when asked to go out and train a casual carrier, which meant she would have to walk along with the carrier, she had no problem."

By decision dated June 17, 1999, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that her disability was causally related to her November 17, 1998 employment injury.

By letter dated June 21, 1999, appellant requested an oral hearing, which was held on November 16, 1999.

³ Dr. Seitz included medical restrictions for appellant in his report.

Appellant testified that she stopped work on April 20, 1999 because on April 19, 1999 her doctor advised that her wrist and shoulder were inflamed and that she should not work for a week. She noted that in March 1998 she underwent wrist and shoulder surgery for injuries caused by domestic violence. Appellant testified that, prior to November 17, 1998, she was placed on light duty for reasons unrelated to her employment. She further testified that, on November 17, 1998, she sustained an employment-related injury when she exceeded her light-duty requirements. Thereafter, her right shoulder condition worsened because she compensated for her right wrist.

Appellant testified that she accepted a limited-duty job offer on April 26, 1999 and retired on July 31, 1999. She also testified that her limited-duty assignment did not change.

By decision dated February 3, 2000, the Office hearing representative denied the claim on the grounds that the evidence of record failed to establish a change in the nature and extent of appellant's employment-related injury or job duties.

The Board finds that appellant has failed to establish that she sustained a recurrence of disability on or after April 19, 1999 causally related to her November 17, 1998 employment injury.⁴

An employee who claims benefits under the Federal Employees' Compensation Act⁵ has the burden of establishing the essential elements of his claim.⁶ When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a limited- or light-duty position or the medical evidence of record establishes that he can perform light duty, 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. 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.⁷ The claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.⁸

In this case, the medical evidence of record fails to explain how and why appellant's current wrist and shoulder condition is causally related to her November 17, 1998 employment injury or show a change in the nature and extent of her limited-duty job requirements. In his February 15, 1999 report, Dr. Seitz concluded that appellant was totally disabled, but, he failed to provide a rationalized medical opinion relating appellant's current condition to her November 17, 1998 employment injury. Dr. Seitz merely opined that appellant could not

⁴ The Board notes that the record contains a schedule award claim dated June 2, 1999, however, because that matter has not been addressed by the Office in a final decision within one year of appellant's appeal, it is not now before the Board for consideration. 20 C.F.R. § 501.2(c).

⁵ 5 U.S.C. §§ 8101-8193.

⁶ *Ruthie Evans*, 41 ECAB 416, 423-24 (1990); *Donald R. Vanlehn*, 40 ECAB 1237, 1238 (1989).

⁷ *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

⁸ *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

perform her duties due to severe upper extremity pain caused by lunotriquetral ligament rupture, median nerve compression, and right shoulder impingement with a rotator cuff tear. He did not adequately explain the relationship between appellant's accepted employment-related injury and her alleged disability. By her own admission, appellant's light- or limited-duty job requirements did not change following her November 17, 1998 employment injury. Therefore, the Board finds that appellant has failed to meet her burden of proof.

The decisions of the Office of Workers' Compensation Programs dated February 3, 2000 and June 17, 1999 are hereby affirmed.

Dated, Washington, DC
August 20, 2001

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member