

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES P. CLARK and U.S. POSTAL SERVICE,  
POST OFFICE, Lehigh Valley, PA

*Docket No. 01-246; Submitted on the Record;  
Issued August 23, 2001*

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DECISION and ORDER

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

The issue is whether appellant established that he sustained a recurrence of disability on August 28, 1998 due to a December 9, 1994 employment injury.

The Office of Workers' Compensation Programs accepted appellant's claim for right wrist sprain and subsequently for de Quervain's disease of the right thumb.

On January 13, 1999 appellant filed a claim for a recurrence of disability commencing August 26, 1998 due to a December 9, 1994 employment injury. Appellant indicated that from December 9, 1994 to February 23, 1995 he worked light duty with no use of his right arm. He submitted progress notes dated October 29 through December 18, 1998 and a medical report dated October 23, 1998 from his treating physician, Dr. Charles L. Ludivico, a Board-certified internist with a specialty in rheumatology. He also submitted progress notes dated from February 6 through September 28, 1995 from Dr. Charles R. Levine, a Board-certified orthopedic surgeon. In his progress notes, Dr. Ludivico consistently diagnosed de Quervain's tenosynovitis in the right hand which might be work related. He also diagnosed arthralgias and hepatitis. In his October 23, 1998 report, Dr. Ludivico's diagnoses included hepatitis, gouty arthritis in the right great toe, Lyme disease and depression. Dr. Ludivico stated that an x-ray showed vascular calcification to the right artery. In his progress notes, Dr. Levine diagnosed de Quervain's disease and placed appellant on light duty.

By decision dated April 23, 1999, the Office denied the claim stating that the evidence of record failed to establish that the claimed recurrence was causally related to the December 9, 1994 employment injury.

By letter dated March 29, 2000, appellant requested reconsideration of the Office's decision and submitted a medical report from Dr. Ludivico dated July 6, 1999. In his report,

Dr. Ludivico considered appellant's history of injury and performed a physical examination. He considered that appellant's work involved lifting heavy trays of mail up to 75 times an hour and stated:

"It is likely that this type of repetitive work has contributed to strain and sprain syndrome involving his hand and may have aggravated an arthritic condition of his hand last October 1998. Although he does have an underlying gouty arthritis and an undiagnosed inflammatory oligoarthritis of his hands, any repetitive strain syndrome that he describes certainly can be expected to aggravate his arthropathy."

He concluded that the past history of exacerbation of hand or wrist tenosynovitis "can be" work related.

By decision dated May 10, 2000, the Office denied appellant's request for modification regarding his claim for a recurrence of disability but extended the accepted claim to include de Quervain's disease.

By letter dated July 11, 2000, appellant requested reconsideration of the Office's decision and submitted a medical report dated June 28, 2000 from Dr. Levine. In his report, Dr. Levine considered appellant's history of injury, performed a physical examination on February 6, 1995 and in May 1995, and stated that in February 1995 appellant had de Quervain's disease and he placed him on a light-duty job. He stated that appellant's symptoms recurred in May 1995 and he treated him symptomatically again. Dr. Levine stated that appellant had ongoing symptoms over the past five years "relating back to the initial injury at work on December 9, 1994." He stated that appellant's "current ongoing problems relate back" to the December 9, 1994 employment injury.

By decision dated August 2, 2000, the Office denied appellant's request for modification.

The Board finds that appellant did not establish that he sustained a recurrence of disability commencing August 26, 1998 of the December 9, 1994 employment injury.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a 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 to show that he or 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.<sup>1</sup> 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 was causally related to the employment injury, and supports that conclusion with sound medical reasoning.<sup>2</sup>

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<sup>1</sup> *Mary A. Howard*, 45 ECAB 646, 651 (1996).

<sup>2</sup> *See Nicolea Brusco*, 33 ECAB 1138 (1982).

In this case, none of the medical evidence of record contains a rationalized medical opinion explaining how appellant's current condition relates to the accepted injury of right wrist sprain and de Quervain's disease. In his July 6, 1999 report, Dr. Ludivico is vague and speculative as he stated that the heavy, repetitive lifting appellant performed at work "likely" contributed to appellant's strain and sprain syndrome and "may have aggravated" the arthritic condition of his hand. He also stated that any repetitive strain syndrome "can be expected" to aggravate appellant's arthropathy. Further, Dr. Ludivico concluded that appellant's past history of exacerbations of his hand or wrist tenosynovitis "can be" work related. The Board has held that a medical opinion which is equivocal or speculative is of limited probative value.<sup>3</sup>

In his June 28, 2000 report, Dr. Levine stated that appellant's ongoing symptoms in his right thumb and wrist related back to the December 9, 1994 employment injury. He did not provide any rationalized medical explanation for his conclusion. The Board has held that a medical opinion not fortified by medical rationale is of little probative value.<sup>4</sup> Further, Dr. Levine did not explain that appellant had a recurrence of disability on August 26, 1998 and he had not treated appellant since 1995. None of the other medical evidence consisting of Dr. Ludivico's and Dr. Levine's progress notes and Dr. Ludivico's October 23, 1998 report address the cause of appellant's alleged recurrence of disability. Appellant has therefore failed to establish his claim.

The August 2 and May 10, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC  
August 23, 2001

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

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<sup>3</sup> See *Betty M. Regan*, 49 EAB 496, 502 (1998); *Wendell D. Harrell*, 49 ECAB 289, 291 (1998).

<sup>4</sup> *Ronald C. Hand*, 49 ECAB 113, 118 (1997).