

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GLADYS MARSDEN and U.S. POSTAL SERVICE,
CHURCH STREET STATION, New York, NY

*Docket No. 00-2161; Submitted on the Record;
Issued May 2, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant had a recurrence of disability on February 19, 2000 that was causally related to her February 5, 1998 employment injury.

On February 5, 1998 appellant, then a 40-year-old letter carrier, was walking down a hallway to pick up mail when she slipped on a piece of wood and fell, landing on her right knee and hitting her head against the floor. The Office of Workers' Compensation Programs accepted appellant's claim for contusions of the head and the right knee. Appellant stopped working on February 5, 1998 and returned to limited-duty work on March 17, 1998. She received continuation of pay for the period she did not work.

On February 22, 2000 appellant filed a claim for a recurrence of disability. She reported that she had stopped working on February 19, 2000 because her knee had become more painful. Appellant indicated that she had worked more overtime hours due to the lack of carriers. She attributed her pain to excessive standing.

In a May 20, 2000 decision, the Office denied appellant's claim on the grounds that the evidence of record did not establish either a change in her employment-related condition or a change in the nature or extent of her light-duty assignment.

The Board finds that appellant had not met her burden of proof in establishing that she had 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 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

In this case, appellant stated that she was working more overtime hours but did not give any specific details of her overtime work. She otherwise did not show that there had been any change in the limited-duty position she had held after she returned to work. The only medical evidence appellant submitted was a February 23, 2000 form report from Dr. Apostolos Tambakis, a Board-certified orthopedic surgeon, who diagnosed derangement and synovitis of the right knee and indicated appellant was totally disabled. He stated that appellant could return to work on February 28, 2000 and should not perform overtime for three weeks. Dr. Tambakis did not provide an opinion relating appellant's disability to her February 5, 1998 employment injury and did not provide any explanation on how the earlier employment injury would cause a recurrence of disability two years later. Appellant therefore has not met her burden of proof in establishing that her recurrence of disability was causally related to her employment injury.

The decision of the Office of Workers' Compensation Programs dated May 20, 2000 is hereby affirmed.

Dated, Washington, DC
May 2, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

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