

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVEN E. KEUSEMAN and U.S. POSTAL SERVICE,
POST OFFICE, Chanhassen, MN

*Docket No. 00-836; Submitted on the Record;
Issued November 16, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a recurrence of disability on July 4, 1998, causally related to his October 29, 1996 employment injury.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office of Workers' Compensation Programs dated December 21, 1998 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.¹

Appellant subsequently filed a request for reconsideration accompanied by additional medical evidence. In a decision dated August 25, 1999, the Office denied modification of the prior decision.

The Office previously considered the majority of evidence submitted on reconsideration. The evidence consisted of a January 14, 1999 "work slip" from appellant's orthopedic surgeon, Dr. David C. Carlson, who noted a diagnosis of shoulder impingement and further commented that appellant should be retrained to do something within the restrictions previously outlined. Although Dr. Carlson noted that appellant's restrictions were permanent, he did not clearly identify the previously outlined restrictions.

¹ When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position, or the medical evidence of record establishes that he can perform the light-duty position, the employee has the burden of establishing 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 employment-related condition or a change in the nature and extent of the light-duty job requirements. *Mary A. Howard*, 45 ECAB 646 (1994); *Terry R. Hedman*, 38 ECAB 222 (1986).

In a report dated May 5, 1999, Dr. Carlson chronicled his treatment of appellant beginning November 18, 1997; however, the doctor did not specifically address appellant's claimed recurrence of disability on July 4, 1998. Moreover, Dr. Carlson noted that when he saw appellant on June 26, 1998 he continued to have difficulties with his shoulder, but that a magnetic resonance imaging (MRI) scan showed no new problems and no evidence of tendinitis or rotator cuff pathology. Additionally, Dr. Carlson provided a May 6, 1999 "work slip" wherein he diagnosed right shoulder injury and reported permanent restrictions of no overhead lifting, no lifting in excess of 20 pounds, and avoid frequent bending, stooping and twisting.

The above-referenced evidence does not specifically address appellant's claimed recurrence of disability on July 4, 1998. Furthermore, Dr. Carlson noted that a June 26, 1998 MRI scan showed no new problems and no evidence of tendinitis or rotator cuff pathology. Consequently, Dr. Carlson's recent submissions do not provide any further insight regarding appellant's claimed recurrence of disability on July 4, 1998. Accordingly, the Office properly concluded that the evidence submitted on reconsideration was insufficient to warrant modification of the prior decision dated September 3, 1998.

The decisions of the Office of Workers' Compensation Programs dated August 25, 1999 and December 21, 1998 are hereby affirmed.

Dated, Washington, DC
November 16, 2001

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member