

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MANJIT KAUR and U.S. POSTAL SERVICE,
POST OFFICE, Concord, CA

*Docket No. 00-2498; Submitted on the Record;
Issued October 17, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant established that her claimed disability on January 29, 2000 and her medical treatment on February 22, 2000 are causally related to her September 20, 1996 employment injury.

On October 7, 1996 appellant, a 42-year-old letter carrier, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that she sustained a cervical injury while in the performance of duty. She identified September 20, 1996 as the date she first became aware of her employment-related cervical condition. Appellant ceased work on September 20, 1996 and she returned to work in a light-duty capacity on October 22, 1996. The Office of Workers' Compensation Programs accepted appellant's claim for cervical and back strain and temporary aggravation of degenerative cervical disease. Additionally, appellant received appropriate wage-loss compensation.

On February 24, 2000 appellant filed a claim for compensation (Form CA-7) for eight hours of lost wages due to disability on January 29, 2000. She also sought compensation for 1.72 hours of lost wages due to medical treatment received on February 22, 2000.

The Office advised appellant by letter dated March 9, 2000 of the need for medical evidence regarding her work status on January 29, 2000. Additionally, the Office afforded appellant 30 days within which to submit the requested medical evidence. Appellant submitted additional evidence from her treating physician, Dr. Julie Nefkens, who diagnosed a severe acute flare of chronic cervical strain and radiculopathy with herniated nucleus pulposus at C5-6.

By decision dated April 11, 2000, the Office denied appellant's claim for compensation.

Appellant requested reconsideration on May 9, 2000. She resubmitted evidence previously forwarded to the Office and noted that this evidence had not been reviewed. Additionally, appellant submitted a May 4, 2000 progress report from Dr. Nefkens.¹

In a decision dated May 17, 2000, the Office denied modification of the April 11, 2000 decision. The Office found Dr. Nefkens' recent report insufficient to meet appellant's burden noting that "Only the cervical strain [had] been accepted as industrially related ... as the Office [had] not received medical rationale connecting the herniated disc to the claimant's work." The Office further explained that appellant's "increase in symptoms" could be due to her nonindustrial condition.

The Board finds that appellant failed to establish that her claimed disability on January 29, 2000 and her medical treatment on February 22, 2000 are causally related to her September 20, 1996 employment injury.

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 of establishing 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 employment-related condition or a change in the nature and extent of the light-duty job requirements.²

The Board notes that appellant did not allege a change in the nature and extent of the light-duty position she held at the time of her claimed disability on January 29 and February 22, 2000. The Board further finds that the record does not establish a change in the nature and extent of appellant's light-duty position.

Appellant also failed to establish a change in the nature and extent of her accepted employment-related condition. As previously indicated, Dr. Nefkens diagnosed radiculopathy due to disc herniation at C5-6 and chronic cervical strain and pain. While Dr. Nefkens' May 4, 2000 report indicated that appellant's current condition was employment related, she did not provide any rationale for her conclusion. She merely checked the "yes" box in response to question number eight on Form CA-20.³ The Board has consistently held that such an opinion is of diminished probative value and is, therefore, insufficient to establish causal relationship.⁴ Additionally, Dr. Nefkens' relevant treatment records dated January 21 and January 27, 2000 do

¹ In her May 4, 2000 report (Form CA-20), Dr. Nefkens diagnosed radiculopathy due to disc herniation at C5-6 and chronic cervical strain and pain, which she characterized as a "severe acute flare." Additionally, she attributed appellant's condition to her September 20, 1996 employment injury. Dr. Nefkens further noted that appellant was totally disabled from January 21 to January 27, 2000. She advised appellant that she could resume light-duty work effective January 31, 2000.

² *Mary A. Howard*, 45 ECAB 646 (1994); *Terry R. Hedman*, 38 ECAB 222 (1986).

³ Question number 8 on Form CA-20 inquires as follows: "Do you believe the condition found was caused or aggravated by an employment activity?"

⁴ *E.g., Lee R. Haywood*, 48 ECAB 145, 147 (1996).

not offer any greater insight as to the cause of appellant's claimed period of disability. This evidence similarly fails to provide any rationale regarding the issue of causal relationship.

As appellant failed to establish a causal relationship between her current condition and her accepted employment injury of September 20, 1996, the Office properly denied appellant's claim for wage-loss compensation for January 29 and February 22, 2000.⁵

The May 17, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 17, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁵ The Board's review is limited to the evidence of record that was before the Office at the time of its final decision dated May 17, 2000. 20 C.F.R. § 501.2(c).