

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHAMIKA L. AMISON and U.S. POSTAL SERVICE,
POST OFFICE, Cincinnati, OH

*Docket No. 01-1538; Submitted on the Record;
Issued February 22, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established a recurrence of disability commencing May 14, 2000.

On April 27, 2000 appellant, a 20-year-old casual clerk, filed a traumatic injury claim (Form CA-1), alleging that she sustained injury to her back and arm while picking up and throwing mail on April 23, 2000. The Office of Workers' Compensation Programs accepted the claim for an acute right shoulder strain. Appellant worked in a light-duty position following the injury. On May 25, 2000 appellant filed a notice of recurrence of disability (Form CA-2a) commencing May 22, 2000.

In a decision dated September 18, 2000, the Office determined that appellant was not entitled to compensation for wage loss as of May 22, 2000. By decision dated April 23, 2001, an Office hearing representative affirmed the prior decision.

The Board finds that appellant has not established a recurrence of disability commencing May 22, 2000.

When an employee who is disabled from the job she held is injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.¹

In this case, appellant returned to work in a light-duty position that limited the use of her right arm and restricted lifting to five pounds. In a July 4, 2000 statement, an employing

¹ *Terry R. Hedman*, 38 ECAB 222 (1986).

establishment supervisor indicated that appellant had an appointment on May 22, 2000 at an employing establishment medical unit, but did not appear for the scheduled appointment. Appellant has argued that light duty was not available; the record, however, does not substantiate her claim. According to the July 4, 2000 statement, appellant reported for work on May 26, 2000 and was told that light duty within her work restrictions remained available. On May 30, 2000 her next scheduled workday, the employing establishment offered appellant in writing a light-duty position that required no lifting over five pounds and limited use of the right arm. Appellant's supervisor indicated on the reverse of the Form CA-2a that at no time was appellant told she could not return to work. The Board finds that the record does not substantiate the allegation that a light-duty position had been withdrawn or was unavailable commencing May 22, 2000.

With respect to the medical evidence, appellant did not show a change in her employment-related condition that caused disability for the light-duty position as of May 22, 2000. In a May 26, 2000 note, Dr. William Froschauer, an orthopedic surgeon, indicated that appellant could work with a five-pound lifting restriction and limitation on right arm movement. This does not support total disability, as the work restrictions were within the light-duty job. In a form report (CA-20) dated June 20, 2000, Dr. Froschauer diagnosed right shoulder muscle strain, checked a box "yes" that the condition was employment related, and reported a period of total disability from May 21 to July 21, 2000. Dr. Froschauer stated that appellant attempted to return to work but was told light duty was not available. This has not been factually established, as noted above, and Dr. Froschauer does not provide further explanation or detail to support total disability commencing May 22, 2000. In the absence of a reasoned medical report establishing total disability causally related to the employment injury as of May 22, 2000, the Board finds that appellant has not met her burden of proof in this case.

The decisions of the Office of Workers' Compensation Programs dated April 23, 2001 and September 18, 2000 are affirmed.

Dated, Washington, DC
February 22, 2002

Alec J. Koromilas
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member