

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JEANETTE EDWARD and U.S. POSTAL SERVICE,  
POST OFFICE, Detroit, MI

*Docket No. 01-1717; Submitted on the Record;  
Issued July 9, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability on or after November 16, 2000 causally related to her accepted injury of October 24, 2000.

The Board has duly reviewed the case on appeal and finds that appellant has failed to meet her burden of proof in establishing a recurrence of disability on or after November 16, 2000.

On October 26, 2000 appellant, a 32-year-old mailhandler, filed a claim alleging that she injured her back on October 24, 2000 when she was using a pallet jack to place a skid on the dock ramp into a truck and the skid began to roll backwards. The Office of Workers' Compensation Programs accepted appellant's claim for low back strain. Appellant stopped working on October 25, 2000. Following a November 9, 2000 medical release with restrictions, appellant was supposed to return to work, in a limited-duty capacity, on November 10, 2000.<sup>1</sup> By letter dated November 21, 2000, the employing establishment indicated that appellant did not work the limited-duty job. An emergency room disability slip indicated that appellant was unable to work from November 13 to 15, 2000. On November 16, 2000 appellant was involved in a nonemployment-related motor vehicle accident. On November 27, 2000 appellant filed a notice of recurrence of disability alleging that her nonemployment-related motor vehicle accident of November 16, 2000 aggravated her original employment injury. By decision dated March 7, 2001, the Office denied appellant's claim for recurrence of disability. Appellant returned to work on December 15, 2000.

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<sup>1</sup> A medical report dated November 9, 2000 advised that appellant could return to work with restrictions of no lifting over 10 pounds and no frequent or excessive bending. The employing establishment offered appellant a limited-duty assignment consistent with the restrictions which appellant signed November 9, 2000.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her recurrence of disability commencing November 16, 2000 and her October 24, 2000 employment injury.<sup>2</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 is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>3</sup>

In support of her claim for recurrence, appellant stated that she experienced the same sort of pain in her lower back from the nonemployment-related motor vehicle accident as she had from the original injury. She further related that the pain had traveled to her mid-back. In a statement dated January 9, 2001, appellant asserted that she was still in pain when she returned to work on November 11, 2000 and ended up going to the medical unit and leaving at 12:30 a.m. She indicated that she provided medical documentation from the emergency room which had her off work for a week. Appellant asserted that she was involved in an automobile accident on November 16, 2000 and reported to her doctor as she was supposed to start physical therapy and work on November 17, 2000. She asserted that the motor vehicle accident aggravated and worsened her employment injury.

In a November 17, 2000 report, Dr. Michael Thibodeau, a Board-certified internist, stated that appellant had a history of chronic mid thoracic and low back pain who came into the clinic status post automobile accident yesterday. Appellant's prior workers' compensation claim for her back was noted. Physical examination findings were provided. No focal neurological deficits were found. In light of appellant's history of back injury and the recent automobile accident, plain films of the back were ordered with the recommendation that physical therapy be resumed if the films were normal.

Appellant also submitted several medical reports from Dr. Mia Durham, a Board-certified internist. In a progress report dated November 17, 2000, the motor vehicle accident of November 16, 2000 was noted along with appellant's complaint that she felt her pain had gotten worse. Appellant was observed ambulating into the clinic in no apparent distress. The trunk range of motion was within normal limits in all directions. Lower extremity range of motion was also within normal limits without symptom provocation. All myotomes and dermatomes appeared intact throughout the bilateral lower extremities for strength and sensation testing. Appellant exhibited point tenderness along the mid back area from around T12 to L2 with some mild tenderness in the bilateral PSISs. A low back strain was diagnosed with the recommendation that appellant would benefit from active physical therapy.

In a report dated December 20, 2000, Dr. Durham noted that she initially saw appellant on October 26, 2000 for her work-related injury of October 24, 2000. She indicated that, since appellant had injured her back on October 24, 2000, she had been having a lot of low back soreness, pain and stiffness. Dr. Durham indicated that she had been unable to work from October 24 through December 14, 2000 because of this discomfort. She indicated that appellant

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<sup>2</sup> *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

<sup>3</sup> *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

tried to return to work in mid November but was unable to because of the discomfort in her lower back. Dr. Durham noted that appellant was currently on physical therapy and returned to light-duty work with restrictions on December 15, 2000. She advised that she saw appellant on October 26, 2000 and on November 14, 2000 for her lower back. Dr. Durham noted that she was seen in the emergency room on November 13, 2000 when she tried to go back to work and the pain became very severe and worsened. She also noted that appellant had seen a colleague of hers after she was in a motor vehicle accident which again aggravated her lower back on November 17, 2000. On examination appellant had low back discomfort on palpation around the lumbar musculature. There have been no neurological deficits. Straight leg raising has been negative. Motor and sensation has been intact. Dr. Durham advised that appellant continue her physical therapy, continue on light duty for the next 30 days and use pain medication as needed.

Although Dr. Durham provided an accurate description of appellant's treatment following her work injury of October 24, 2000, her December 20, 2000 report is insufficient to meet appellant's burden of proof as Dr. Durham failed to provide an opinion on the causal relationship between appellant's condition and disability following her motor vehicle accident of November 16, 2000 and her accepted October 24, 2000 low back strain. Although Dr. Durham stated that the motor vehicle accident had aggravated appellant's lower back on November 17, 2000, without any explanation or rationale for her conclusion that appellant was totally disabled from October 24 through December 14, 2000 because of the work-related injury of October 24, 2000, such report is insufficient to establish causal relationship.<sup>4</sup> As Dr. Durham did not provide sufficient medical reasoning to support her conclusion that the motor vehicle accident of November 16, 2000 aggravated appellant's work-related low back strain, she failed to supply the necessary medical rationale to meet appellant's burden of proof. The other medical reports do not discuss causal relationship.

Appellant failed to provide a medical opinion based on a proper factual background and complete with medical reasoning explaining why and how her current condition and disability is causally related to her accepted employment injury and she, therefore, failed to meet her burden of proof.

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<sup>4</sup> *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

The March 7, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
July 9, 2002

Alec J. Koromilas  
Member

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member