

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LORINE ADAMS and U.S. POSTAL SERVICE,
MODESTO REMOTE ENCODING CENTER, Modesto, CA

*Docket No. 01-1464; Submitted on the Record;
Issued March 7, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
DAVID S. GERSON

The issue is whether appellant sustained a recurrence of disability causally related to her November 20, 1995 employment injury.

The Board has duly reviewed the record in this appeal and finds that appellant failed to meet her burden of proof to establish that she sustained a recurrence of disability causally related to her November 20, 1995 employment injury.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.¹ 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 the employment injury and supports that conclusion with sound medical rationale.² Where no such rationale is present, medical evidence is of diminished probative value.³

On March 22, 1996 appellant, then a 27-year-old data transcriber, filed an occupational disease claim for her right wrist on November 20, 1995 due to the repetitive use of her hands in her job. On June 7, 1996 the Office of Workers' Compensation Programs accepted appellant's claim for right carpal tunnel syndrome. She underwent a right carpal tunnel release on October 22, 1996. On December 3, 1996 the Office accepted that appellant had bilateral carpal tunnel syndrome. Appellant was released by her physician to return to regular work on

¹ See *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988).

² See *Mary S. Brock*, 40 ECAB 461, 471 (1989); *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

³ See *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

January 6, 1997. She sustained a recurrence of disability on January 6, 1997 and was placed on the periodic compensation roll to receive compensation for temporary total disability.

The Office referred appellant to a vocational rehabilitation counselor in June 1997. She began taking courses for certification as a teacher's assistant and earned a certificate in early childhood education on May 29, 1998.

On August 24, 1998 appellant was re-employed as a teacher's assistant for a day care center. She stopped work on December 16, 1998 when she married and moved to another state.

On October 23, 2000 appellant filed a claim for a recurrence of disability in 1997 and 1998. She indicated that pain and swelling in her hands occurred when she started training for her teacher's aide position. She stated that in her new position she lifted children and chairs, did a lot of writing, and performed tasks requiring repetitive use of the hands including cleaning the furniture.

By decision dated April 16, 2001, the Office denied appellant's claim for a recurrence of disability on the grounds that she had failed to establish that her recurrence of disability was causally related to her November 20, 1995 employment injury.

In a report submitted dated May 9, 1997, Dr. Steven V. Moore, appellant's attending orthopedic surgeon, indicated that appellant had permanent work restrictions due to her carpal tunnel syndrome and recommended that she be retrained for a job that did not require repetitive use of the hands.

In a report dated October 2, 1998, Dr. Moore stated that appellant had pain in both hands but was no longer experiencing numbness or tingling in the right hand following surgery two years previously. He noted that she was working as a preschool teacher's aide. As Dr. Moore did not indicate that appellant was disabled, this report does not support appellant's claim for a recurrence of disability causally related to her November 20, 1995 employment injury.

In a report dated November 14, 1998, Dr. Moore stated that appellant had persistent pain in both hands but examination revealed the absence of any identifiable objective pathology and "there is not much to recommend from a treatment standpoint." He stated that she was able to perform her preschool teacher's aide job. Because Dr. Moore did not find any objective evidence to explain appellant's pain, did not relate her pain to her November 20, 1995 employment injury, and did not state that she was disabled, this report does not discharge appellant's burden of proof.

Appellant submitted a report dated November 10, 1999, Dr. Karen Johnston-Jones, which provided a history of appellant's condition and findings on examination and diagnosed bilateral cubital tunnel syndrome,⁴ worse on the right. She stated that appellant was unemployed at

⁴ Cubital tunnel syndrome involves compression of the ulnar nerve in the elbow, with pain and numbness along the ulnar aspect of the hand and forearm and weakness of the hand. Carpal tunnel syndrome involves compression of the median nerve in the carpal tunnel of the hand, with pain and burning or tingling paresthesias in the fingers and hand, sometimes extending to the elbow. *Dorland's Illustrated Medical Dictionary*, 1632, 1633 (27th ed. 1988).

present but had been performing computer work for the employing establishment when she experienced her initial symptoms of carpal tunnel syndrome on November 20, 1995. Dr. Johnston-Jones stated that appellant underwent a right carpal tunnel release which gave her no significant relief from the pain, aches, numbness and tingling in her arms. She stated that the pain and swelling in appellant's hands had increased over the past several months. However, cubital tunnel syndrome is not an accepted condition in this case and Dr. Johnston-Jones did not provide a rationalized medical explanation as to how appellant's condition was causally related to her November 20, 1995 employment-related carpal tunnel syndrome. Therefore, this report is not sufficient to establish that appellant sustained a recurrence of disability causally related to her November 20, 1995 employment injury.

Appellant submitted a report dated August 24, 2000, Dr. Ramon E. Vargas, which stated that appellant had been diagnosed with bilateral carpal tunnel syndrome and bilateral epicondylitis⁵ five years previously and had a right carpal tunnel release at that time. He stated that she had undergone physical therapy with no relief. Dr. Vargas noted that appellant was currently working in a day care center where she lifted and carried children all day and this activity made her symptoms worse. However, epicondylitis is not an accepted condition in this case. Although carpal tunnel syndrome is an accepted condition, Dr. Vargas did not provide a rationalized medical opinion as to how appellant's current problems were causally related to her November 20, 1995 employment injury. Such rationale is particularly important in light of the activities involved in appellant's job as a teacher's aide. Therefore, this report is not sufficient to discharge appellant's burden of proof.

In a report dated October 23, 2000, Dr. Vargas diagnosed bilateral epicondylitis and left cubital tunnel syndrome and indicated that appellant could not perform her duties at the day care center. Dr. Vargas checked the block marked "yes" indicating that her condition was aggravated by her employment activity. However, as noted above, epicondylitis and cubital tunnel syndrome are not accepted conditions in this case and the Board has held that an opinion on causal relationship which consists only of checking "yes" to a form report question on whether the claimant's disability was related to the history given is of little probative value.⁶ Without any explanation or rationale, such a report has little probative value and is insufficient to establish causal relationship.⁷ Furthermore, Dr. Vargas did not indicate that appellant was unable to work. Therefore, this report is not sufficient to establish that appellant sustained a recurrence of disability causally related to her November 20, 1995 employment injury.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.⁸ Appellant failed to submit rationalized medical evidence

⁵ Epicondylitis is an inflammation involving the area of the humerus, the bone that extends from the shoulder to the elbow. *Dorland's Illustrated Medical Dictionary*, 565, 779 (27th ed. 1988).

⁶ See *Donald W. Long*, 41 ECAB 142, 146 (1989).

⁷ *Id.*

⁸ See *Walter D. Morehead*, 31 ECAB 188, 194-95 (1979).

establishing that her claimed recurrence of disability was causally related to the accepted employment injury and, therefore, the Office properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated April 16, 2001 is affirmed.

Dated, Washington, DC
March 7, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

David S. Gerson
Alternate Member