

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERICA M. HALL and U.S. POSTAL SERVICE,
POST OFFICE, Merrifield, VA

*Docket No. 02-1173; Submitted on the Record;
Issued November 4, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of disability beginning August 29, 2001 due to her June 17, 1997 employment injury.

On June 18, 1997 appellant, then a 24-year-old carrier, injured her lower back when she was pulling a mail truck containing tubs of mail. The Office of Workers' Compensation Programs accepted that appellant sustained a lumbosacral strain and authorized physical therapy. Appellant did not stop work but returned to light duty.

Accompanying appellant's claim were treatment notes from Dr. Charlene Deluca, a Board-certified internist, dated June 24 to August 6, 1997; and Dr. Christopher Holland, Board-certified in emergency medicine, dated June 18 to August 18, 1997. Drs. Deluca and Holland noted a history of appellant's work-related injury. They diagnosed appellant with lumbosacral strain and recommended limited duty.

The employing establishment offered appellant several limited-duty positions dated October 1, December 1 and 6, 1997 which complied with the medical restrictions set forth by her treating physicians. Appellant returned to work on limited duty with restrictions on lifting, sitting, standing, walking, climbing, kneeling, bending, stooping, twisting, pushing and pulling.

Thereafter, appellant submitted a magnetic resonance imaging (MRI) scan dated August 18, 1996; and a report from Dr. Tony Nguyen Aram, a family practitioner, dated September 21, 1999. The MRI revealed no abnormalities. Dr. Aram's report dated September 21, 1999 diagnosed appellant with mechanical low back pain. He advised appellant to lose weight.

In letters dated May 5 and 19, 2000, the Office informed Dr. Aram that appellant was on restricted duty for three years and requested an updated report detailing appellant's current work restrictions. In a report dated May 12, 2000, Dr. Aram noted on a work limitations work sheet

that had appellant reached maximum medical improvement and could work 8 hours a day with lifting restrictions of 25 pounds.

The employing establishment offered appellant a limited-duty position dated September 25, 2001 which complied with the medical restrictions set forth by her treating physicians. Appellant continued to work on limited duty.

On September 25, 2001 appellant filed a Form CA-2a, notice of recurrence of disability. She indicated a recurrence on August 29, 2001, noting that she experienced back pain since the employment-related injury of June 17, 1997. Appellant stopped work on August 29, 2001.

Appellant submitted a report from Dr. Aram dated September 6, 2001, who indicated that appellant was treated for a recurrent complaint of low back pain. He noted that appellant was a letter carrier who experienced pain with certain activity at work when she was required to carry objects. Appellant reported that her pain commenced when she lifted greater than 50 pounds for over 2 hours. Dr. Aram indicated that physical examination revealed no neurologic deficit; the spinal examination revealed no gross deformity; and the straight leg raises were negative. Dr. Aram diagnosed appellant with mechanical low back pain induced by lifting. He recommended a weight reduction plan; anti-inflammatory medications; and tailoring her work so that she lifts no greater than 50 pounds and lifts no more than 15 pounds for a 2-hour period. Dr. Aram discharged appellant from his care and indicated that there was no anatomical explanation for her pain.

By letters dated October 18 and November 23, 2001, the Office informed appellant that she must provide additional information in support of her recurrence of disability claim.

Thereafter, appellant submitted duplicate treatment notes from Dr. Aram dated September 21 and May 12, 2000; a copy of the Form CA-2a; a limited-duty job offer of September 25, 2001; and a Form CA-7 dated September 25, 2001.

In a decision dated December 10, 2001, the Office denied appellant's claim for recurrence of disability on the grounds that she did not submit sufficient medical evidence to establish that she sustained a recurrence of disability on or about August 29, 2001 which was causally related to the accepted employment injury sustained June 17, 1997.

The Board finds that the evidence fails to establish that appellant sustained a recurrence of disability beginning on August 29, 2001 as a result of her June 17, 1997 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 to establish 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 injury-related condition or a change in the nature and extent of the light-duty requirements.¹

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

Appellant has not submitted sufficient evidence to support 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. On October 18 and November 23, 2001 the Office advised appellant of the type of medical evidence needed to establish her claim.

Appellant submitted a report from Dr. Aram dated September 6, 2001 in support of her recurrence of disability claim. Dr. Aram indicated that appellant was treated for a recurrent complaint of low back pain. He noted that appellant was a letter carrier who experienced pain with certain activity at work when she was required to carry objects. Dr. Aram indicated that physical examination revealed no neurologic deficit; the spinal examination revealed no gross deformity; and the straight leg raises were negative. Dr. Aram diagnosed appellant with mechanical low back pain induced by lifting. He recommended a weight reduction plan; anti-inflammatory medications; and tailoring her work so that she lifts no greater than 50 pounds and lifts no more than 15 pounds for a 2-hour period. However, none of Dr. Aram's reports, most contemporaneous with the recurrence of injury noted a specific date of a recurrence of disability nor did he note a particular change in the nature of appellant's physical condition, arising from the employment injury, which prevented appellant from performing her light-duty position. Rather he indicated that there was no anatomical explanation for her pain and discharged her from his care. These notes are vague regarding the time of the onset of the claimed recurrence of disability and are unrationalized regarding how the 1997 employment injury would have caused a particular period of disability beginning in August 2001.² Dr. Aram neither addresses whether appellant was totally disabled due to her work injury on or after August 29, 2001 nor does he offer any reasoned support for causal relationship of the claimed condition or disability to the accepted work-related injury of June 17, 1997. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.³

Dr. Aram's September 6, 2001 note indicated that appellant's complaints of pain when lifting greater than 50 pounds and recommended tailoring her activities at work so that she lifts no greater than 50 pounds and lifts no greater than 15 pounds for longer than 2 hours. However, there is no credible evidence which substantiates that appellant experienced a change in the nature and extent of the light-duty requirements or was required to lift greater than her medical restrictions.

Appellant has not met her burden of proof in establishing that there was a change in the nature or extent of the injury-related condition or a change in the nature and extent of the light-duty requirements which would prohibit her from performing the light-duty position she assumed after she returned to work.

² See *Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

³ *Id.*

The decision of the Office of Workers' Compensation Programs dated December 10, 2001 is hereby affirmed.

Dated, Washington, DC
November 4, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member