

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROSEMARIE TROISE and U.S. POSTAL SERVICE,  
POST OFFICE, Commack, NY

*Docket No. 02-1340; Submitted on the Record;  
Issued November 1, 2002*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of total disability on January 3, 2002 causally related to her March 23, 2001 employment injury.

On March 23, 2001 appellant, then a 52-year-old window clerk, filed a traumatic injury claim alleging that on that date she injured her right wrist when an impatient customer tried to assist her in moving a box.

In a report dated March 26, 2001, Dr. Peter Langan, an orthopedic surgeon, stated that appellant injured her wrist when a customer twisted a box in her hand. He stated that x-rays did not show a fracture and she could return to limited duty, wearing a wrist splint for two weeks. In an accompanying form, he listed specific work restrictions.

On March 28, 2001 appellant accepted a limited-duty position within the restrictions established by Dr. Langan.

In a report dated June 12, 2001, Dr. Glenn A. Teplitz, an orthopedic surgeon specializing in hand surgery and an associate of Dr. Langan, provided findings on examination and diagnosed multiple wrist ligamentous injuries. He recommended physical therapy and a magnetic resonance imaging (MRI) to further evaluate appellant's condition.

By decision dated July 9, 2001, the Office of Workers' Compensation Programs accepted appellant's claim for a right wrist sprain.

An MRI report dated July 25, 2001 indicated no abnormalities with the exception of two ganglion cysts.

In a report dated January 2, 2002, Dr. Majid Khan, a radiologist, indicated that appellant had a normal arthrogram of the right wrist.

On January 5, 2002 appellant filed a claim for a recurrence of disability on January 3, 2002 causally related to her March 23, 2001 employment injury. She stated that she had pain and limited flexibility in her right wrist and required surgery. A supervisor stated that appellant went for a test on January 3, 2002 and was unable to work on January 4, 2002 due to wrist swelling and pain.

In a disability certificate dated January 23, 2002, Dr. Teplitz indicated that appellant could perform light duty with no lifting over five pounds. In a form report dated January 23, 2002, he provided the same work restrictions as in Dr. Langan's March 26, 2001 report.

By decision dated April 2, 2002, the Office denied appellant's claim for a recurrence of total disability on January 3, 2002 on the grounds that the evidence of record failed to establish either a change in the nature or extent of her work-related condition or a change in the nature or extent of her light-duty position.<sup>1</sup>

The Board finds that appellant has failed to establish that she sustained a recurrence of total disability on January 3, 2002 causally related to her March 23, 2001 employment injury.

An employee returning to light duty or whose medical evidence shows the ability to perform light duty, has the burden of proof to establish a recurrence of temporary total disability by the weight of the reliable, probative and substantial evidence and to show that she cannot perform the light duty.<sup>2</sup> As part of her burden, the employee must show a change in the nature and extent of the injury-related conditions or a change in the nature and extent of the light-duty requirements.<sup>3</sup>

In this case, the Office accepted that appellant sustained a right wrist sprain on March 23, 2001. On March 28, 2001 appellant accepted a limited-duty position within the restrictions established by Dr. Langan in his March 26, 2001 report.

On January 5, 2002 appellant filed a claim for a recurrence of disability on January 3, 2002 causally related to her March 23, 2001 employment injury.

In a disability certificate dated January 23, 2002, Dr. Teplitz, an orthopedic surgeon specializing in hand surgery and an associate of Dr. Langan, indicated that appellant could perform light duty. In a form report dated January 23, 2002 he provided the same work restrictions as in Dr. Langan's March 26, 2001 report. Dr. Teplitz did not address whether appellant had any disability for work commencing on or about January 3, 2002 due to residuals of her accepted injury. Nor did the physician address the issue of whether appellant required

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<sup>1</sup> The record contains additional evidence that was not before the Office at the time it issued its April 2, 2002 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

<sup>2</sup> *See Terry R. Hedman*, 38 ECAB 222, 227 (1986).

<sup>3</sup> *See Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Stuart K. Stanton*, 40 ECAB 859, 864 (1989); *Terry R. Hedman*, *supra* note 2.

surgery. The medical evidence submitted is not sufficient to meet appellant's burden of proof to establish a recurrence of disability causally related to her March 23, 2001 injury.

As appellant has failed to establish a change in the nature and extent of her work-related right wrist sprain or a change in the nature and extent of her light-duty requirements, she has failed to meet her burden of proof.

The decision of the Office of Workers' Compensation Programs dated April 2, 2002 is affirmed.

Dated, Washington, DC  
November 1, 2002

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member