

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANE L. HUSCHLE and U.S. POSTAL SERVICE,
PALMER POST OFFICE, Palmer, AK

*Docket No. 02-1298; Submitted on the Record;
Issued October 4, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability on March 26, 2001 causally related to her August 12, 1999 employment injury.

On August 12, 1999 appellant, then a 40-year-old postal clerk, was picking up a parcel when she felt pain in her neck and shoulder. The Office of Workers' Compensation Programs accepted appellant's claim for left shoulder strain and cervical strain. Appellant stopped working that day and returned to light-duty work on August 14, 1999. She was released for regular duty on August 23, 1999.

On March 26, 2001 she filed a claim for recurrence of disability. Appellant indicated that she stopped working on March 5 and 26, 2001. Appellant commented that as she continued to work, her neck and shoulder pain became worse. Appellant also noted numbness in her arms. In an August 15, 2001 decision, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that her medical condition was caused by her 1999 employment injury. Appellant requested reconsideration. In a January 23, 2002 merit decision, the Office denied appellant's request for modification of the August 15, 2001 decision.

The Board finds that appellant has not met her burden of proof in establishing that she had a recurrence of disability causally related to her August 12, 1999 employment injury.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition for which she seeks compensation was causally related to her employment injury. As part of such burden of proof, rationalized medical evidence showing causal relationship must be submitted.¹

¹ *Dominic M. DeScala*, 37 ECAB 369 (1986).

In an October 13, 2000 treatment note, Dr. Linda J. Sloan indicated that appellant complained of left neck muscle soreness. Dr. Sloan reported that appellant had intermittent exacerbations of pain and muscle soreness in the left trapezius muscle. She commented that appellant did not know why she was getting the exacerbations.

In a March 9, 2001 report, Dr. Sloan noted that appellant had severe left neck and shoulder pain, which caused her to seek emergency treatment on March 5, 2001. Dr. Sloan related that appellant felt her condition was aggravated by painting and pulling carpet and noted that her condition might be aggravated by her employment. She noted that appellant had been aggravated by work previously. Dr. Sloan found tenderness in the left cervical paraspinal muscle area and the left trapezius area. She diagnosed degenerative disc disease.

In a March 23, 2001 report, Dr. William H. Resinger indicated that a magnetic resonance imaging (MRI) scan of the cervical spine showed mild protrusion of disc material centrally and to the left at C4-5 with mild degenerative spurring. Dr. Resinger noted a slight encroachment on the left lateral recess at the C4-5 level. He reported that appellant had mild central disc protrusion and degenerative spurring at the C6-7 level with evidence of a small residual central canal in the cervical cord.

In an August 8, 2001 report, Dr. Larry A. Levine stated that appellant had some soreness around the left shoulder girdle with decreased tonicity of the muscles but no atrophy. Dr. Levine noted that the sensory examination showed paresthesia in the left shoulder area. He reported that electrodiagnostic testing showed moderate carpal tunnel syndrome. Dr. Levine diagnosed left C5 or C6 radiculitis, cervical strain and degenerative changes at C4-5 with referral type pain pattern, moderate carpal tunnel syndrome on the right, cumulative trauma disorder with lateral epicondylitis and referral pain. He stated that appellant had no evidence of significant overt axonal loss or radiculopathy, but pointed out that her symptoms were classic for radiculitis type pattern and matched with the MRI scan findings. Dr. Levine concluded that appellant's work as a distribution clerk clearly contributed to her overall situation. He commented that there had been no interval trauma that would be the cause of appellant's condition. Dr. Levine stated that she had cumulative trauma on top of the other pathology. He recommended retirement or a job change.

In a September 20, 2001 report, Dr. Davis C. Peterson stated that appellant had a history of chronic neck and left upper shoulder pain associated with severe degenerative arthritis, including foraminal narrowing and root impingement involving the left C5 nerve. Dr. Peterson stated that appellant's symptoms had been consistent and chronic since the August 12, 1999 employment injury. He stated that the most recent examination showed inflammation of the C5 nerve but no denervation. Dr. Peterson indicated that appellant's work as a distribution clerk involved frequent twisting, lifting and repetitive arm activities. He commented that appellant's pathology was typically aggravated by such activities because of the mechanical root impingement and inflammation. Dr. Peterson concluded that appellant was unable to perform her job as a distribution clerk.

Dr. Sloan reported that appellant was having increasing neck and shoulder pain. However, she did not directly attribute appellant's condition to the August 12, 1999 employment injury. Dr. Sloan only noted that appellant attributed her condition to her job as well as carpet

removal. Dr. Levine stated that appellant's symptoms were consistent with radiculitis. However, he only stated that appellant's condition was due to her work as a distribution clerk. Dr. Levine did not describe how appellant's work or her August 12, 1999 employment injury would have caused a recurrence of disability approximately 20 months later.² Dr. Peterson stated that appellant's symptoms had been chronic since the August 12, 2001 employment injury. He indicated that appellant's work consisted of activities that would aggravate her condition, including her mechanical root impingement and inflammation. Dr. Peterson, however, did not give a detailed explanation of the conditions caused by the August 12, 1999, employment injury and how those conditions would cause appellant's disability 20 months later after the employment injury.³ His statement that appellant's activities at work would typically cause an aggravation of his underlying condition is equivocal and, therefore, has reduced probative value.⁴ The reports submitted by appellant, therefore, are of limited probative value and are insufficient to meet her burden of proof.⁵

The decisions of the Office of Workers' Compensation Programs, dated January 23, 2002 and August 15, 2001, are hereby affirmed.

Dated, Washington, DC
October 4, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

² See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

³ See *Duane B. Harris*, 49 ECAB 170 (1997).

⁴ See *Betty M. Regan*, 49 ECAB 496 (1998).

⁵ The Board's disposition in this case does not preclude any claim for occupational injury.