

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BARBARA MIZELL-PERRY and DEPARTMENT OF VETERANS
AFFAIRS, VETERANS AFFAIRS MEDICAL CENTER, Lake City, FL

*Docket No. 03-1769; Submitted on the Record;
Issued August 26, 2003*

DECISION and ORDER

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

The issue is whether appellant sustained a recurrence of disability in October 2001 causally related to the accepted March 29, 2000 right hand contusion.

On April 21, 2000 appellant, then a 41-year-old occupational therapist, filed a traumatic injury claim alleging that, on March 29, 2000, she tripped and fell on an exposed tree root in the employee parking lot and injured her left knee and right hand after arriving for work. Appellant lost no time from work.

On March 6, 2002 appellant filed a recurrence of disability claim alleging that she had a recurrence of the same burning and numbness symptoms on her right hand beginning in October 2001 as in the original March 29, 2000 injury. She did not stop work.

By decision dated May 30, 2002, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence did not establish that a condition had been diagnosed in connection with the claimed accident.¹

Appellant requested an oral hearing and submitted medical evidence in support of the claim. A hearing was held on February 14, 2003 during which she offered testimony. Appellant subsequently submitted additional evidence on March 13, 2003. By decision dated April 30, 2003, an Office hearing representative reversed the prior decision in part finding that the medical evidence established that a right hand contusion resulted from the March 29, 2000 incident. The Office hearing representative further affirmed the prior decision in part finding that the evidence failed to establish that a recurrence of disability occurred in October 2001.

¹ The Board notes that the Office denied both the original claim and the recurrence of disability on the basis that the medical evidence of file did not support fact of injury. The original claim in 2000 was closed out administratively without further development since it was considered a minor injury with no time lost from work. After appellant filed the recurrence of disability claim, the Office commenced development of the claim in its entirety which led to the May 30, 2002 denial decision.

The Board finds that appellant has failed to establish that she sustained a recurrence of disability in October 2001 of the March 29, 2000 right hand contusion.

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 this employment injury.² As part of this burden, she must submit a rationalized medical opinion, based upon a complete and accurate factual and medical background, showing a causal relationship between the injury claimed and factors of her federal employment.³ Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. Such an opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.⁴ Causal relationship is a medical issue that can be established only by medical evidence.⁵ An award of compensation may not be made on the basis of surmise, conjecture or speculation or on appellant's unsupported belief of causal relation.⁶ The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship between the two.⁷

The record contains no such medical opinion. Indeed, appellant has failed to submit any medical opinion that relates her condition, commencing October 2001, to her March 29, 2000 employment injury. For this reason, she has not discharged her burden of proof to establish the claim that she sustained a recurrence of disability as a result of her accepted employment injury.

The only relevant medical evidence submitted by appellant was an August 28, 2001 medical report from Dr. Rodger Powell, an attending Board-certified orthopedic surgeon, which discussed his evaluation of appellant based on a referral for right hand pain.⁸ He reported that appellant had an immediate onset of rather significant pain in her hand following the employment-related injury and that she continued to have pain since that time. Dr. Powell noted that x-rays were obtained which showed no fracture and that her neurologic and musculoskeletal examinations that day were essentially normal except for some tenderness and occasional numbness. He diagnosed a possible hook of the hamate fracture and ulnar nerve symptoms related to a bruise at the hook of the hamate. Dr. Powell did not address or explain why the

² *Dominic M. DeScala*, 37 ECAB 369 (1986); *Henry L. Kent*, 34 ECAB 361 (1982).

³ *Steven R. Piper*, 39 ECAB 312 (1987).

⁴ *Id.*

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

⁶ *Alfredo Rodriguez*, 47 ECAB 437 (1996).

⁷ *Barbara J. Williams*, 40 ECAB 649 (1989); *James A. Long*, 40 ECAB 538 (1989).

⁸ Appellant also submitted prescription notes and diagnostic testing reports, but these documents contained no opinion on causal relationship.

claimed condition beginning in October 2001 was caused or aggravated by her March 29, 2000 employment injury. Appellant, therefore, has not met her burden of proof in establishing that she sustained a recurrence of disability.⁹

The decision of the Office of Workers' Compensation Programs dated April 30, 2003 is affirmed.

Dated, Washington, DC
August 26, 2003

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁹ Appellant submitted additional evidence after the Office's April 30, 2003 decision, but the Board cannot consider such evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).