

In a May 16, 2002 duty status report, a family practitioner whose signature is illegible, stated that appellant was released to return to regular duty without restrictions as of May 24, 2002. The record reflects that appellant returned to regular duty on that date. On March 18, 2003 appellant filed a claim for a recurrence of disability commencing March 9, 2003.¹

In a March 18, 2003 duty status report, Dr. Stephen Tibbels, an attending family practitioner, indicated that appellant was not able to perform regular work due to a neck and shoulder injury sustained in December 2001. In a form report dated April 15, 2003, Dr. Loretta R. Tibbels, also an attending family practitioner, indicated that appellant could return to work on April 16, 2003 with certain physical restrictions. She did not indicate the reason for the restrictions.

By decision dated April 29, 2003, the Office denied appellant's claim for a recurrence of disability on March 9, 2003 on the grounds that the medical evidence did not establish that her recurrence was causally related to her December 5, 2001 employment injury.

On May 19, 2003 appellant requested reconsideration and submitted radiology reports dated April 2 through May 13, 2003, which indicated that right shoulder and cervical spine magnetic resonance imaging (MRI) scans and x-rays were normal. She also submitted a May 26, 2003 report in which Dr. Loretta Tibbels stated that appellant sustained a recurrence of her right shoulder trapezius strain. Dr. Loretta Tibbels noted that appellant was seen by her associate, Dr. Stephen Tibbels, on March 11, 2003 for recurrent neck pain and numbness and tingling in the right hand and arm, symptoms that appellant thought were similar to those of her employment injury. Dr. Loretta Tibbels stated that appellant's symptoms were caused by overuse/repetitive motion syndrome. In a form report dated June 23, 2003, Dr. Kay B. Carstens, an attending family practitioner, indicated that appellant could perform light duty with certain restrictions. She did not indicate the reason for the work restrictions.

By decision dated July 9, 2003, the Office denied modification of its April 29, 2003 decision.²

LEGAL PRECEDENT

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.³ 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

¹ It does not appear that appellant stopped work at that time.

² Appellant submitted additional evidence subsequent to the Office decision of July 9, 2003. However, the jurisdiction of the Board is limited to the evidence that was before the Office at the time it issued its final decision. The Board may not review this evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).

³ *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.⁴ Where no such rationale is present, the medical evidence is of diminished probative value.⁵

ANALYSIS

In a March 18, 2003 duty status report, Dr. Stephen Tibbels indicated that appellant was not able to perform regular work due to a neck and shoulder injury sustained in December 2001. In a form report dated April 15, 2003, Dr. Loretta Tibbels indicated that appellant could return to work on April 16, 2003 with certain physical restrictions. However, Dr. Loretta Tibbels did not provide any indication that appellant's need for work restrictions was due to the December 5, 2001 employment injury and Dr. Stephen Tibbels did not explain how appellant's disability commencing on or about March 9, 2003 was causally related to the accepted December 5, 2001 injury.⁶ Such explanation is particularly critical in light of the fact that appellant was medically released to regular duty without restrictions as of May 24, 2002. Lacking such an opinion on causal relationship, which contains adequate medical rationale, these reports are not sufficient to establish that appellant sustained a work-related recurrence of disability on March 9, 2003.

Dr. Loretta Tibbels stated in a May 26, 2003 report that appellant had sustained a recurrence of her right shoulder trapezius strain. She noted that appellant had recurrent neck pain and numbness and tingling in the right hand and arm, symptoms that appellant thought were similar to her employment injury. Dr. Tibbels stated that appellant's symptoms were caused by overuse/repetitive motion syndrome. However, she did not provide sufficient explanation as to how appellant's condition was caused by or contributed to by the December 5, 2001 employment injury. For example, she did not provide a detailed description of appellant's employment injury, a right shoulder trapezius muscle strain, and explain how such a soft-tissue injury resulted in a recurrence of disability more than a year later. Therefore, this report is not sufficient to discharge appellant's burden of proof to establish a work-related recurrence of disability on March 9, 2003.⁷

CONCLUSION

As appellant failed to provide rationalized medical evidence establishing that her recurrence of disability on March 9, 2003 was causally related to her accepted employment injury of December 5, 2001, the Office properly denied her claim.

⁴ *Lourdes Davila*, 45 ECAB 139 (1993); *Mary S. Brock*, 40 ECAB 461 (1989).

⁵ *Michael Stockert*, 39 ECAB 1186 (1988).

⁶ Moreover, Dr. Stephen Tibbels did not provide a clear description of the neck and shoulder injury which he indicated appellant sustained at some point in December 2001.

⁷ In a form report dated June 23, 2003, Dr. Carstens, an attending family practitioner, indicated that appellant could perform light duty with certain restrictions. However, she did not indicate the reason for the work restrictions. Therefore, this report is not sufficient to establish that appellant sustained a recurrence of disability on March 9, 2003 causally related to her December 5, 2001 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 9 and April 29, 2003 are affirmed.

Issued: December 22, 2003
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member