

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANICE ANDERSON and U.S. POSTAL SERVICE,
POST OFFICE, Indianapolis, IN

*Docket No. 02-1843; Submitted on the Record;
Issued January 3, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof in establishing a recurrence of disability due to the November 7, 2000 employment injury, commencing September 4, 2001.

The Office of Workers' Compensation Programs accepted appellant's claim for right elbow strain and right wrist strain.

On September 6, 2001 appellant filed a claim for a recurrence of disability of the November 7, 2000 employment injury, commencing September 4, 2001. Appellant stated that, after the November 7, 2000 employment injury, she returned to light work because she was unable to use her right hand for two months. Appellant stated that, when the recurrence of disability occurred, she was doing the same job "but heavier," that she is right-handed, and that a sharp pain "rips up" her arm when she tried to write. Appellant stated that there was a constant aching, some tingling with some numbness between the fingers and an itchy feeling.

In an attached statement dated October 25, 2001, appellant stated that the recurrence of disability was actually a "continuation." Appellant stated that her doctor told her limited duty was terminated on April 11, 2001, and she stated that her left wrist had started to ache, the pain was becoming more intense, and her left wrist and elbow had begun to swell. Appellant stated that just picking up a pencil caused her acute pain.

Appellant submitted medical evidence consisting of several duty status reports dated from November 29 through December 14, 2000 which indicated that she required work restrictions for her elbow and wrist condition.

By letter dated September 28, 2001, the Office informed appellant that she must submit additional medical evidence including a complete narrative report from her physician explaining how her condition worsened.

By decision dated November 1, 2001, the Office denied appellant's claim, stating that the evidence did not support a disability or condition related to the November 7, 2000 employment injury.

By letter dated January 23, 2002, appellant requested reconsideration of the Office's decision and submitted a disability note from her treating physician, Dr. Larry R. Brazley, a Board-certified internist with a specialty in rheumatology, dated January 22, 2002. In the note, Dr. Brazley diagnosed bilateral epicondylitis and de Quervain's tenosynovitis. He stated that this "is clearly work related" and appellant required job modification.

By decision dated April 11, 2002, the Office denied appellant's request for reconsideration.

The Board finds that appellant did not meet her burden of proof in establishing a recurrence of disability due to the November 7, 2000 employment injury, commencing September 4, 2001.

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.¹ 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.² As part of this burden, the employee must show a change in the nature and extent of the light-duty job requirements or a change in the nature and extent of the injury-related condition.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 that the disabling condition is causally related to the employment injury, and supports that conclusion with sound medical reasoning.⁴ An award of compensation may not be made on the basis of surmise, conjecture, or speculation or an appellant's unsupported belief of causal relation.⁵

In this case, the only medical evidence appellant submitted to support her claim was Dr. Brazley's disability note dated January 22, 2002 and the duty status reports dated from November 19 through December 14, 2000 documenting that she required restrictions for her elbow and wrist condition. Although Dr. Brazley stated in his note that appellant's epicondylitis and de Quervain's tenosynovitis were "clearly work related," he provided no rationalized

¹ *Dominic M. DeScala*, 37 ECAB 369 (1986); *Bobby Melton*, 33 ECAB 1305 (1982).

² *George DePasquale*, 39 ECAB 295, 304; *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

³ *Id.*

⁴ *See Nicolea Brusco*, 33 ECAB 1138 (1982).

⁵ *See William S. Wright*, 45 ECAB 498, 503 (1994).

medical opinion explaining how those conditions resulted from her employment. His disability note is therefore not probative.⁶ The duty status reports are also not probative because they do not contain rational medical opinions explaining the cause of appellant's current condition. Appellant has therefore failed to establish her claim.

The April 11, 2002 and November 1, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
January 3, 2003

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ See *Michael E. Smith*, 50 ECAB 313, 316 n.8 (1999); *Carolyn F. Allen*, 47 ECAB 240, 244-45 (1995).