

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGELA M. MOHR and U.S. POSTAL SERVICE,
POST OFFICE, Cincinnati, OH

*Docket No. 02-2163; Submitted on the Record;
Issued March 25, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of disability on or after March 8, 2001 due to her July 28, 2000 lumbosacral strain.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a recurrence of disability on or after March 8, 2001 due to her July 28, 2000 lumbosacral strain.

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 substantial, reliable and probative evidence and to show that he or she cannot perform the light duty.¹ 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.²

On July 28, 2000 appellant, then a 24-year-old clerk, sustained sharp pains in her back while distributing mail. The Office of Workers' Compensation Programs developed the claim and accepted the condition of lumbosacral strain. Appellant underwent extensive physical therapy and, since her pain persisted, she began working in a limited-duty job. The record reflects that appellant's physician kept appellant off work for extended periods of time. Appellant claimed a recurrence of disability on and after March 8, 2001 stating that she had never recovered from her July 28, 2000 employment injury. By decision dated June 6, 2001, the Office denied appellant's claim on the grounds that she did not meet her burden of proof to establish that she sustained a recurrence of disability on or after March 8, 2001 due to her July 28, 2000 employment injury. The Office determined that the weight of the medical

¹ *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

² *Id.*

evidence rested with the opinion of Dr. Richard T. Sheridan, an orthopedic surgeon, who served as the Office referral physician, and found that appellant was not suffering from residuals of the accepted work-related injury of a lumbosacral strain and was capable of returning to her date-of-injury position, full and unrestricted. The Office further stated that appellant would be scheduled for a referee examination to determine whether ongoing medical treatment was needed.³ By decision dated July 16, 2002, an Office hearing representative affirmed its June 6, 2001 decision.

The Board has stated that the weight of the medical evidence is determined by its reliability, its probative value and its convincing quality. The opportunity for and thoroughness of examination, the accuracy and completeness of the doctor's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the doctor's opinion are factors which enter into such evaluation.⁴

In this case, the report from Dr. Sheridan, an orthopedic surgeon and Office referral physician, constitutes the most reliable and probative evidence on the question of whether appellant had suffered an alleged recurrence of disability on or after March 8, 2001 causally related to the July 28, 2000 lumbosacral strain. In his report of May 24, 2001, Dr. Sheridan reviewed the medical record along with the statement of accepted facts and set forth his examination findings. He opined that appellant was not suffering from residuals of the accepted work-related lumbosacral strain nor was she required to be off work beginning March 10, 2001 as a result of her accepted work injury. He further opined that appellant did not have a reinjury or that anything in her condition changed dramatically necessitating her being off work on March 10, 2001. Dr. Sheridan opined that appellant was capable of returning to her date-of-injury occupation, full and unrestricted.

The Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized opinion of Dr. Sheridan, the Office referral physician. The report of Dr. Sheridan is the only medical evidence of record that specifically addresses whether appellant had suffered an alleged recurrence of disability on or after March 8, 2001. After a thorough review of the medical record and an examination, Dr. Sheridan stated that appellant had not been disabled beginning March 10, 2001 and, in fact, could perform her date-of-injury job.

Appellant submitted a May 1, 2002 treatment note from Dr. Fox advising that appellant should continue with her exercises and light duty. Also submitted was a May 6, 2002 CA-17 form report from Dr. Fox diagnosing lumbosacral sprain soreness and advising that appellant

³ In order to resolve the conflict in the medical opinion between appellant's treating physician, Dr. O. Daniel Fox, a Board-certified orthopedic surgeon, and Dr. Sheridan, an Office referral physician, regarding the question of whether there were any remaining residuals causally related to the accepted lumbosacral strain, the Office properly referred appellant, pursuant to section 8123, to Dr. Edward Berghausen, a Board-certified orthopedic surgeon, for an impartial medical examination. 5 U.S.C. § 8123(a). In an October 9, 2001 report, Dr. Berghausen opined that appellant had no remaining residuals from the lumbosacral strain based on the results of objective studies which were performed prior to appellant's alleged recurrence in opining that such soft tissue injury should have resolved. He further opined that appellant could return to her date-of-injury position without restrictions and that no further medical treatment was needed. The Board notes, however, that the Office has not acted to terminate medical residuals and that question is yet undecided.

⁴ *Melvina Jackson*, 38 ECAB 443 (1987); *Naomi A. Lilly*, 10 ECAB 560 (1959).

should continue working limited duty with restrictions and two (2) consecutive days off in a row each workweek.

These reports, however, are of limited probative value on the relevant issue of the present case in that Dr. Fox did not provide adequate medical rationale in support of his conclusion on causal relationship.⁵ Dr. Fox suggested that appellant's continuing symptoms showed the existence of an employment-related recurrence of disability, but the Board has held that the mere fact an employee experiences such symptoms does not show causal relationship between the employment injury and the claimed disability.⁶ Appellant's claim was accepted for a lumbosacral strain sustained on July 28, 2000 and Dr. Fox has not explained how and why appellant continues to experience an effect from the accepted condition to remain on limited duty with restrictions and to continue medical treatment. Moreover, it is noted that Dr. Fox, in his May 29, 2001 report, noted that, although appellant had a mild disc, it was not enough to account for the level of her discomfort or failure to respond.

For these reasons, appellant did not meet her burden of proof to establish that she sustained a recurrence of disability on or after March 8, 2001 due to her July 28, 2000 lumbosacral strain.

⁵ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

The July 16, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
March 25, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member