

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GLORIA A. MONTGOMERY and U.S. POSTAL SERVICE,
BRENTWOOD POST OFFICE, Washington, DC

*Docket No. 03-156; Submitted on the Record;
Issued March 25, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained a recurrence of disability from September 10 to 19, 2000 related to the accepted November 12, 1998 left trapezius and wrist strains.

The Office of Workers' Compensation Programs accepted that on November 12, 1998 appellant, then a 31-year-old postal distribution clerk, sustained a left wrist strain and left trapezius shoulder strain, caused by repetitively pulling parcels with her left arm during the keying process. Appellant was placed in a light-duty position following the injury.

Appellant submitted treatment notes from November 13 to December 1, 1998 from Dr. George Wathen, an attending internist.¹

In a January 5, 1999 report, Dr. Hampton J. Jackson, Jr., an attending Board-certified orthopedic surgeon, diagnosed an acromioclavicular joint injury as opposed to a rotator cuff injury.

In a January 29, 1999 report, Dr. Jackson noted that appellant was "left handed and her job require[d] repeated use of the left upper extremity, extension of the shoulder and arm in general and repeated use of the hand and fingers as well as the wrist. Her arm [was] not holding up under this job. There is significant aggravation of [appellant's] left shoulder condition with this work and aggravation of her wrist," which was chronically sprained. Dr. Jackson submitted periodic notes dated from July 13, 1999 to April 4, 2000, diagnosing a rotator cuff syndrome and a possible disc injury attributable to the November 12, 1998 injury, with involvement of the "cervical spine and the left shoulder and the intervening upper trapezius muscle region."

¹ A November 25, 1998 cervical magnetic resonance imagine (MRI) scan showed no evidence of disc herniation. A December 9, 1998 MRI scan of the left shoulder showed no evidence of a rotator cuff tear.

In reports dated from May 16 to July 25, 2000, Dr. Jackson diagnosed a C7 radiculopathy by April 6, 2000 electromyography (EMG) study, attributable to the November 12, 1998 injury to the “upper trapezius and lateral neck area.” He prescribed continued light duty.

In a September 12, 2000 report, Dr. Jackson noted treating appellant “for conditions caused by the work accident of November 12, 1998.” He noted, “recurrence symptoms in [appellant’s] shoulder, which is actually the shoulder joint itself, the left upper trapezius and posterior cervicals on that side. There is some increased spasm there.” Dr. Jackson held appellant off work from September 10 to 16, 2000, noting that she had worked a half day on September 11, 2000.

In a September 14, 2000 duty status report, Dr. Jackson diagnosed impingement syndrome of the left shoulder, a left shoulder sprain-strain and a left wrist strain. Dr. Jackson checked a box “yes” indicating his support for a causal relationship between the November 12, 1998 injury and appellant’s medical condition. He stated that appellant was “totally disabled from September 10 to 16, 2000,” and could resume light duty on September 17, 2000, with lifting limited to 10 pounds and no pulling, pushing, simple grasping, keying or rewrapping.

On September 28, 2000 appellant filed a claim for a recurrence of disability on September 8, 2000, causing her to be absent from work through September 19, 2000. She explained that the claimed recurrence of disability was “caused by the constant repetitive movement of [her] left arm” while placing letters and magazines in trays and tubs, causing her left shoulder “to become sore and ache.” Appellant also attributed the recurrence of disability to the November 12, 1998 injury. She noted that she was on light duty on September 8, 2000, with restrictions against pulling, pushing, keying, lifting, rewrapping parcels or overhead work. On the reverse of the form, appellant’s supervisor stated that she “agree[d] with [appellant].”

In a November 13, 2000 letter, the Office advised appellant of the medical and factual evidence needed to establish her claim, including a physician’s “opinion, with supporting explanation, as to the causal relationship between [her] current disability/condition and the original injury.” The Office advised appellant that if she did not submit such evidence in 30 days, her claim for recurrence of disability could be denied.

By decision dated April 24, 2001, the Office denied appellant’s claim for a recurrence of disability beginning July 6, 2001 on the grounds that causal relationship was not established. The Office found that appellant submitted insufficient medical evidence to establish a medical causal relationship between the November 12, 1998 injury and her medical condition from September 10 to 18, 2000.

Appellant disagreed with this decision and requested reconsideration, in an April 22, 2002 letter. In this letter and an April 23, 2002 letter, she asserted that on September 10, 2000, she had exhausted her left upper extremity due to repetitive motions at work and required time off to recuperate. She submitted new evidence.

A November 12, 1998 EMG showed left C6 radiculopathy.

In a November 28, 2000 letter, Dr. Jackson noted treating appellant beginning on December 8, 1998 “for conditions associated with the injury on November 12, 1998.” He opined

that “pushing, pulling, twisting and other work activities on November 12, 1998 were the cause of” appellant’s neck, left shoulder, wrist and arm pain, a left C7 radiculopathy, chronic left shoulder strain or sprain, chronic cervical sprain, “a sprain/strain of the left wrist and possible carpal tunnel development in the left wrist as a result of the work incident.” Dr. Jackson submitted work restriction forms through April 13, 2001 prohibiting pushing, pulling, simple grasping, keying and no lifting over 10 pounds.

In an April 13, 2001 report, Dr. Jackson stated that appellant’s neck and left shoulder symptoms continued and she “must remain on light duties if we want to avoid surgery and be able to keep [appellant] at gainful employment.”

In a May 18, 2001 letter, Dr. Jackson stated that appellant “was incapable of work, totally disabled from September 10 to 19, 2000. There was a clerical error on the CA-20 form that is dated September 14, 2000.... [T]his opinion is based on” a September 12, 2000 examination, “subsequent to [appellant] sustaining the recurrence of injury on September 10, 2000....” Dr. Jackson attributed the recurrence of disability to “repetitive activities with her arm and shoulder” while on light duty.

In a second May 18, 2001 report, Dr. Jackson noted that appellant had symptoms of C6 radiculopathy and could avoid surgery if “reassigned to a job that does not require repetitive use of the arm....”² He also noted radicular symptoms in his June 15, 2001 report.

In reports from August 17 to October 23, 2001, Dr. Jackson noted that appellant still had “significant symptoms” in her neck, left shoulder and left wrist. He asserted that the employing establishment did not adhere to appellant’s light-duty restrictions.³

In a February 5, 2002 report, Dr. Jackson related appellant’s account of her light-duty position, including “repetitive lifting, manipulation and handling of various types and categories of mail or mounting, usually to approximately 4800 to 7200 pieces of mail per shift.” He opined that appellant was totally disabled for work for the period September 10 to 18, 2000 because from August 10 to September 10, 2000, appellant “was required to lift and manipulate ... between 144,000 and 216,000 total pieces of mail. Certainly, this does not sound like light duties ... and it did not adhere to my light[-]duty restrictions given to this patient.” Dr. Jackson opined that appellant’s “left shoulder trapezius strain and left wrist strain were aggravated and accelerated by her present occupation, resulting in a period of total disability from September 10 to 18, 2000.”⁴

² In a May 18, 2001 duty status report, Dr. Jackson diagnosed a left shoulder strain/sprain and impingement syndrome related to the November 12, 1998 injury.

³ In a December 11, 2001 report, Dr. Jackson noted increased left shoulder symptoms, with “synovial thickening and obvious aggravation” due to a “change in weather.”

⁴ In February 19, 2002 reports, Dr. Jackson diagnosed a torn left rotator cuff. He stated that appellant’s neck and bilateral shoulder symptoms continued, “aggravated by her employer’s disregard for [appellant’s] light-duty restrictions.” In an April 16, 2002 form report, Dr. Jackson diagnosed a left rotator cuff tear with impingement syndrome due to the November 12, 1998 injury and prescribed limited duty.

In a March 19, 2002 report, Dr. Jackson stated that appellant's limited-duty requirements of handling "4,800 to 7,200 pieces of mail per shift ... caused intermittent, significant increase in her symptoms and she was not able to work" from September 10 to 18, 2000.

By decision dated July 24, 2002, the Office denied modification of its April 25, 2001 decision. The Office found that "Dr. Jackson consistently noted that [appellant] sustained injury due to repetitive activities with [her] arm and shoulder," explaining that "repetitive lifting, manipulation and handling of various types ... of mail aggravated and accelerated [her] left shoulder trapezius strain and left wrist strain." The Office found that, as Dr. Jackson attributed appellant's disability from September 10 to 19, 2000 to a new injury of "repetitive lifting and manipulation of various types of mail," it appeared that appellant had sustained an occupational injury as opposed to a recurrence of disability.

The Board finds that appellant has not established that she sustained a recurrence of disability from September 10 to 19, 2000 causally related to the accepted November 12, 1998 left shoulder and wrist strains.

When a claimant who is on light duty alleges a recurrence of disability, he must show either a change in the nature and extent of the light-duty job requirements or in the extent of the work-related injury or condition.⁵ To show a change in the degree of the work-related injury or condition, the claimant must submit rationalized medical evidence documenting such change, and explaining how and why the accepted injury or condition disabled him or her for work on and after the date of the alleged recurrence of disability.⁶

As applied to this case, appellant must demonstrate a spontaneous worsening of the accepted November 12, 1998 left wrist and left shoulder/trapezius sprain/strains, with no intervening injury, such that she was totally disabled for her light-duty job from September 10 to 19, 2000. Alternatively, appellant must show a change in the nature and extent of her light-duty job requirements such that she was no longer medically able to perform those duties.

The evidence of record does not establish that appellant's left upper extremity condition or disability from September 10 to 19, 2000 was related to the November 12, 1998 left shoulder and wrist sprain/strains. These injuries were caused by repetitively pulling parcels on November 12, 1998. However, appellant attributed her left upper extremity condition beginning September 8, 2000 to work factors occurring after November 12, 1998. In her September 28, 2000 claim form, appellant asserted that her left shoulder, wrist and neck conditions were due to repetitive motions at work while placing letters and magazines in trays and tubs. As noted by the Office, this would be a basis for a new injury claim.

Dr. Jackson did not relate the claimed recurrence of disability to the work factors of November 12, 1998. While Dr. Jackson attributed appellant's continuing medical condition, including the period from September 10 to 19, 2000, to the November 12, 1998 injury, a close examination of the medical evidence calls this into question.

⁵ *Mary A. Howard*, 45 ECAB 646 (1994); *Terry R. Hedman*, 38 ECAB 222, (1986).

⁶ *James H. Botts*, 50 ECAB 265 (1999).

Dr. Jackson's most detailed explanations on causal relationship are found in his February 5 and March 19, 2002 reports. However, neither explanation attributes appellant's condition from September 10 through 18, 2000 to the work injury of November 12, 1998. In the February 5, 2002 report, Dr. Jackson opined that appellant was totally disabled for work for the period September 10 to 18, 2000 because from August 10 to September 10, 2000, she handled "between 144,000 and 216,000 total pieces of mail," which was beyond her medical restrictions. Dr. Jackson opined that appellant's "left shoulder trapezius strain and left wrist strain were aggravated and accelerated by her present occupation, resulting in a period of total disability from September 10 to 18, 2000." In a March 19, 2002 report, Dr. Jackson stated that handling "4,800 to 7,200 pieces of mail per shift ... caused intermittent, significant increase in her symptoms and she was not able to work" from September 10 to 18, 2000. Dr. Jackson is not describing a recurrence of disability, but the development of occupational conditions affecting the left upper extremity due to work factors occurring from August 10 to September 10, 2000.

Dr. Jackson also attributed a wide variety of nonaccepted conditions to the November 12, 1998 left shoulder and wrist strains or to work factors such as repetitive left arm motions. In reports from January 5, 1999 to February 19, 2002, he diagnosed damage to the left acromioclavicular joint, a rotator cuff syndrome, a rotator cuff tear, a left shoulder impingement syndrome, possible cervical disc injury, C6 and C7 radiculopathy, spasm of the left upper trapezius and paracervical muscles and chronic cervical sprain. However, the Office has only accepted that appellant sustained a left shoulder and left wrist sprain/strain on November 12, 1998. The Office did not accept any other injury or condition. Appellant has not claimed acromioclavicular joint or rotator cuff injuries, impingement syndrome, a cervical disc injury, C6 or C7 radiculopathy or chronic cervical problems. Therefore, Dr. Jackson's opinion about these conditions is not relevant to appellant's claim for recurrence of disability.

The Board notes that appellant has submitted detailed medical evidence establishing continuing treatment for left upper extremity complaints from November 13, 1998 onward. However, as set forth above, these records do not establish that appellant sustained a recurrence of disability from September 10 to 19, 2000. As the Office noted in its July 24, 2002 decision, these records indicate that appellant may have sustained an occupational condition of the left upper extremity. The Office advised appellant to submit a Form CA-2 claim for occupational disease or condition of record.

Consequently, appellant failed to establish that she sustained a recurrence of disability from September 10 to 19, 2000 as she submitted insufficient rationalized medical evidence to establish the pathophysiologic relationship between the November 12, 1998 injury, work factors on November 12, 1998 and the period of the claimed recurrence. Appellant has not established that she sustained a spontaneous worsening of her accepted left wrist and shoulder strains such that she could no longer perform her light-duty position from September 10 to 19, 2000.

The decision of the Office of Workers' Compensation Programs dated July 24, 2002 is hereby affirmed.

Dated, Washington, DC
March 25, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member