

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KIMBERLY M. QUARLES and U.S. POSTAL SERVICE,
PROCESSING & DISTRIBUTION CENTER, Milwaukee, WI

*Docket No. 03-483; Submitted on the Record;
Issued March 25, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant established a recurrence of disability causally related to her accepted work injury.

Appellant's claims filed on December 21, 1998, May 7, 1999 and March 9, 2000, after she hurt her right shoulder while keying mail were accepted for tendinitis. Appellant received appropriate compensation, underwent surgery on April 24, 2000 and returned to part-time limited duty in August 2000.

On May 5, 2001 appellant's treating physician, Dr. John T. Kroner, a Board-certified orthopedic surgeon, removed all physical restrictions. Appellant began her regular duties on June 7, 2001 and obtained a new job starting on June 16, 2001.

The Office of Workers' Compensation Programs issued a schedule award for a 13 percent permanent impairment of appellant's right upper extremity on November 13, 2001 running from May 5, 2001 to February 12, 2002, at a rate of \$2,437.00 every four weeks.

On August 27, 2002 appellant filed a recurrence of disability claim alleging that her shoulder condition had not changed or improved and that she had persistent pain, swelling and spasms. Her left shoulder also hurt, due to overcompensating for use of her right shoulder. By letter dated September 24, 2002, the Office explained the definition of a recurrence of disability and appellant's responsibility to submit medical evidence showing a causal relationship between the claimed recurrence and the accepted work injury.

On December 2, 2002 the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish the requisite causal relationship. The Office noted that appellant had not submitted a factual statement as requested and found the September 18, 2002 progress note from Dr. Kroner insufficiently probative.

The Board finds that appellant has failed to meet her burden of proof to establish a recurrence of disability causally related to the accepted work injury.

When an employee, who is disabled from the job he or she held when injured, returns to a limited or light-duty position or the medical evidence establishes that the employee can perform the duties of such a position, the employee has the burden to establish by the weight of reliable, probative and substantial evidence, a recurrence of total disability.¹ 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.²

A recurrence of disability is defined as a spontaneous material change in the employment-related condition without an intervening injury.³ A person who claims a recurrence of disability has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which he claims compensation is causally related to the accepted employment injury.⁴ To meet this burden of proof, a claimant must furnish 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.⁵

Causal relationship is a medical issue⁶ and the medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. This consists of a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.⁷ The physician's opinion 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 the claimant.⁸

In this case, the Office informed appellant on September 24, 2002 of the factual and medical evidence needed to establish that a recurrence of disability causally related to the accepted work injury had prevented her from working. Appellant failed to submit a clarifying statement of how the recurrence of disability occurred. She stated on the claim form that both shoulders "have the same feel as I had from the original injury" and are presenting the "same problems." Appellant noted that she had not stopped work.

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

² *Glenn Robertson*, 48 ECAB 344, 352 (1997).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b.(a)(1) (May 1997).

⁴ *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

⁵ *Helen K. Holt*, 50 ECAB 279, 282 (1999).

⁶ *Elizabeth Stanislav*, 49 ECAB 540-41 (1998).

⁷ *Duane B. Harris*, 49 ECAB 170, 173 (1997).

⁸ *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

The September 18, 2002 report from Dr. Kroner related that appellant found her shoulder “aggravating her more and more of late,” with grating, grinding and difficulty reaching in front and overhead. He noted that appellant was on Prednisone, which did not seem to help her shoulder. He found good passive and active range of motion but discomfort at the extremes, with a little crepitation. Dr. Kroner concluded that appellant was neurovascularly intact with no atrophy of the shoulder girdle musculature.

Dr. Kroner offered no definitive diagnosis of appellant’s shoulder condition and failed to discuss any causal relationship of this condition to appellant’s present work or her accepted tendinitis. Therefore, his report is insufficient to meet appellant’s burden of proof to establish that her recurrence of disability was causally related to her accepted shoulder injury.⁹

The December 2, 2002 decision of the Office of Workers’ Compensation Programs is hereby affirmed.¹⁰

Dated, Washington, DC
March 25, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁹ See *Carmen Gould*, 50 ECAB 504, 508 (1999) (finding that a physician’s opinion that failed to explain the relationship between appellant’s current back condition and the accepted lumbar sprain was insufficient to establish causation and thus failed to meet appellant’s burden of proof).

¹⁰ Appellant asked the Board for “reconsideration” and submitted additional evidence. The Board is without jurisdiction to review this evidence. See 20 C.F.R § 501.2(c); *Thomas W. Stevens*, 50 ECAB 288-89 n.2 (1999) (the Board is precluded from reviewing evidence that was not before the Office when it issued its final decision). Appellant may wish to submit this evidence with a request for reconsideration to the Office.