

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RUTH WASHINGTON and U.S. POSTAL SERVICE,
POST OFFICE, Los Angeles, CA

*Docket No. 03-336; Submitted on the Record;
Issued May 8, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained a recurrence of disability beginning October 12, 2001 causally related to her July 21, 1993 employment injury.

On August 3, 1993 appellant, then a 52-year-old clerk, filed a claim for traumatic injury alleging that on July 21, 1993 she sustained a lower back with sciatica injury.

By letter dated September 14, 1993, the Office of Workers' Compensation Programs accepted appellant's claim for lumbar strain and paid appropriate benefits.

Appellant returned to light duty on February 15, 1994.

In a claim dated October 26, 2001 and received by the Office on November 3, 2001, appellant claimed a recurrence of disability and noted that she stopped work following the recurrence on October 12, 2001. Appellant claimed that she had intermittent back pain with no "particular aggravation" which persisted for days and that her mobility was sometimes restricted.

By letter dated December 10, 2001, the Office advised appellant regarding the kind of evidence she would need to support her claim for a recurrence of disability.

In a report dated October 25, 2001 and received by the Office on December 27, 2001, Dr. Randolph C. O'Hara, appellant's treating physician, stated that appellant's work-related symptoms caused by her 1993 industrial injury had resolved. However, Dr. O'Hara noted that she had developed a subsequent back pain with intermittent leg pain over the prior year. He diagnosed appellant with spondylolisthesis L4-5.

By decision dated February 12, 2002, the Office denied appellant's claim for recurrence of disability.

By letter dated March 12, 2002, appellant requested review of the written record.

Appellant filed her appeal to the Board on October 3, 2002.

The Board finds that appellant failed to establish that she sustained a recurrence of disability causally related to her July 21, 1993 employment injury.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he or 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 he or she cannot perform such light duty. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.¹

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence, which includes 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. The opinion of the physician 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.²

The Board finds that the evidence from Dr. O'Hara is of diminished probative value on the issue presented. The October 25, 2001 report does not establish that appellant's current condition was causally related to her accepted injury. His diagnosis of spondylolisthesis, L4-5, was determined by the Office to be a concurrent condition and not a work-related condition. Although Dr. O'Hara stated that appellant's work-related symptoms "had resolved over time," he also noted that she began to have back problems again. However, Dr. O'Hara failed to provide a reasoned medical opinion establishing a causal relationship between his finding of additional back pain and her work-related injury. The Board notes that the accepted injury was a lumbar strain; in order to establish that her additional back condition is employment related, she must submit a rationalized medical opinion, based on a complete factual and medical background, explaining the nature of the relationship between the diagnosed condition and the employment injury.³ In the absence of such evidence, the Board finds that appellant did not meet her burden of proof in this case.

¹ *Ralph C. Spivey*, 53 ECAB ____ (Docket No. 01-263, issued December 4, 2001), *Terry R. Hedman*, 38 ECAB 222 (1986).

² *Allen C. Hundley*, 53 ECAB ____ (Docket No. 02-107, issued May 17, 2002).

³ *Helen K. Holt*, 50 ECAB 279, 282 (1999).

The February 12, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.⁴

Dated, Washington, DC
May 8, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ On November 6, 2002, the Branch of Hearings and Review denied appellant's September 3, 2002 request for review of the written record on the grounds that it was untimely filed. However, appellant had filed her appeal with the Board on October 3, 2002, prior to the November 6, 2002 decision and thus, under the principles discussed in *Douglas E. Billings*, 41 ECAB 880 (1990), the Branch of Hearings and Review's November 6, 2002 decision is null and void. Appellant submitted additional evidence to the Board; however, the jurisdiction of the Board is limited to the evidence that was before the Office at the time it issued its final decision; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting additional evidence to the Office along with a request for reconsideration.