

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of TERRIE D. GASKINS-BRYANT and U.S. POSTAL SERVICE,  
POST OFFICE, Florence, SC

*Docket No. 03-1637; Submitted on the Record;  
Issued October 21, 2003*

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DECISION and ORDER

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

The issue is whether appellant established that she sustained a recurrence of disability on or after July 15, 2002 causally related to her work-related condition of bilateral carpal tunnel syndrome.

On December 13, 1997 appellant, then a 37-year-old mark-up clerk, filed a notice of occupational disease alleging that she experienced hand pain as a result of repetitive computer keying in the performance of duty. She indicated that she first became aware of her condition and its relationship to her employment on October 31, 1997. The Office of Workers' Compensation Programs accepted the claim for bilateral carpal tunnel syndrome and authorized right carpal tunnel releases performed on December 7, 1998 and July 14, 2000 and a left carpal tunnel release performed on September 22, 2000. The Office paid appropriate compensation for intermittent periods of disability. On January 5, 2002 appellant began working eight hours per day in a modified job as a computerized forwarding systems (CFS) clerk.

On July 18, 2002 appellant filed a claim for a recurrence of disability beginning July 15, 2002. She alleged that her bilateral hand condition had deteriorated since returning to limited duty. She stated that in her modified CFS clerk job she was still required to perform computer keying duties and therefore began to experience unbearable pain, tingling and numbness in both hands.<sup>1</sup> The record reflects that appellant missed three days of work from July 15 to 18, 2002. She also filed a series of CA-7 claims seeking compensation for lost wages beginning September 7, 2002.

In an August 16, 2002 letter, the Office advised appellant of the medical and factual evidence required to establish her claim for compensation. She was informed of her burden to

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<sup>1</sup> Appellant also stated on her claim form that she suffered from anxiety and depression caused by discrimination from the employing establishment with respect to her race, mental and physical disabilities. The Office directed appellant to file a separate occupational disease claim if she sought compensation based on an emotional condition. The Office apparently accepted an emotional condition claim pursuant to case number 062066501.

submit reasoned medical evidence demonstrating that she was no longer capable of performing her light-duty job due to either a change in the nature and extent of her light-duty job or a change in the nature and extent of her work-related injury. In a decision dated October 24, 2002, the Office denied compensation on the grounds that the evidence was insufficient to establish that appellant sustained a recurrence of disability on or after July 15, 2002 as a result of her work-related condition.<sup>2</sup> Appellant subsequently filed two requests for reconsideration on October 30, 2002 and February 17, 2003.<sup>3</sup> The Office issued decisions denying modification on January 22 and May 9, 2003 respectively.

The Board finds that appellant failed to establish that she sustained a recurrence of disability on or after July 15, 2002 causally related to her work-related condition of bilateral carpal tunnel syndrome.<sup>4</sup>

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 establishes that the employee 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 to show that he or she cannot perform such light duty. As part of the burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.<sup>5</sup>

In this case, the Office accepted that appellant developed bilateral carpal tunnel syndrome as a result of work factors. She was paid compensation for disability and returned to a modified job for eight hours per day effective January 5, 2002. The Board finds that, although appellant filed a claim for a recurrence of disability, she has not provided any rationalized medical evidence to establish that there was a material worsening of her carpal tunnel syndrome such that she could no longer perform her light-duty job on or after July 15, 2002.<sup>6</sup>

The record reflects that appellant has been under the care of Dr. Jeff N. Gheraibeh, a Board-certified orthopedic surgeon, for treatment of her bilateral carpal tunnel syndrome. She submitted a work excuse note dated June 7, 2002, wherein the physician stated that appellant was

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<sup>2</sup> In a November 5, 2002 letter, the Office informed appellant that, since her claim for a recurrence of disability had been denied, no action was being taken at that time with respect to her CA-7 claims for lost wages.

<sup>3</sup> The Office noted that appellant had retired on disability effective March 7, 2003. The Office once again stated that no action was being taken on her claim for lost wages.

<sup>4</sup> In a January 18, 2002 decision, the Office issued a schedule award for five percent permanent impairment of the right wrist and five percent permanent impairment of the left wrist. On March 6, 2002 the Office determined that the position of a modified clerk fairly and reasonably represented appellant's wage-earning capacity and, therefore, adjusted her compensation to reflect that she had no loss of wage-earning capacity. The Board notes that those Office decisions are not before the Board since the Board's jurisdiction extends only to final decisions issued by the Office within one year prior to the date of appellant's appeal, which was filed on June 18, 2003; *see* 20 C.F.R. § 501.2(c), 501.3(d)(2).

<sup>5</sup> *Shelly A. Paolinetti*, 52 ECAB 391 (2001); *Albert C. Brown*, 52 ECAB 152 (2000).

<sup>6</sup> Appellant did not claim that her light-duty job changed.

unable to perform the job of a modified CFS clerk.<sup>7</sup> Dr. Gheraibeh explained on a (Form CA-17) duty status report dated June 7, 2002 that appellant was unable to perform the specific work duties of simple grasping and fine manipulation. In a treatment note dated June 20, 2002, Dr. Gheraibeh indicated that appellant was seen for complaints of bilateral hand pain. He related that appellant returned to full duty in 2000 and “had recurrence of symptoms after doing repetitive work.” Appellant was told to wear a splint at work. On July 18, 2002 Dr. Gheraibeh prepared another work excuse note, releasing appellant to light duty. In a duty status report dated July 18, 2002, he indicated that appellant could perform simple grasping and fine manipulation of her hands but only from six to eight hours per day on an intermittent basis.

In an October 25, 2002 report, Dr. Gheraibeh, opined that appellant suffered from bilateral carpal tunnel syndrome and that she was not able to do any repetitive work even with braces applied to her hands. The physician noted that appellant underwent revision surgery but that the procedure did not help alleviate her symptoms. He concluded that appellant was unable to perform her job duties. On January 3, 2003 the employing establishment sent a letter to Dr. Gheraibeh seeking clarification as to appellant’s work restrictions.<sup>8</sup> He responded on January 21, 2003, stating that appellant had no expected date of recovery for her bilateral carpal tunnel syndrome, that she was unable to perform more than one hour of repetitive work per day and that she was limited to lifting five pounds with each hand.<sup>9</sup>

The Board finds the June 7, 2002 medical excuse note and duty status report prepared by Dr. Gheraibeh to be insufficient to carry appellant’s burden of proof since neither document provides any medical rationale for why appellant was determined to be unable to perform her modified job as a CFS clerk. Although Dr. Gheraibeh specifically noted that appellant had a “recurrence of symptoms” in his June 20, 2002 treatment note, he did not provide any explanation for why appellant was prescribed a splint and placed on light duty other than her subjective complaints of pain. Moreover, the Board notes that this evidence predates appellant’s alleged date of onset of disability for work, which is listed on her CA-2 claim form as July 15, 2002.

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<sup>7</sup> Appellant also submitted a copy of a medical excuse form signed by Dr. Richard C. Alexander, Jr., a family practitioner, requesting that appellant be excused from work from June 19 to 22, 2002. Because Dr. Alexander did not offer any explanation as to why appellant was unable to work, his opinion is not deemed to be considered a reasoned medical opinion. Similarly, in a report dated October 28, 2002, Dr Alexander indicated that appellant suffered from depression “exacerbated by some of her work conditions at her present job.” He noted that her depression made it difficult for her to concentrate and recommended against appellant working the night shift because of drowsiness from her medication. Because he did not explain how appellant’s emotional condition was causally related to her work injury, there is no basis for concluding that it was a consequential injury, which resulted in disability for work. The Board has held that a medical opinion not fortified by medical rationale is of little probative value; *see Caroline Thomas*, 51 ECAB 451 (2000).

<sup>8</sup> Appellant submitted copies of evidence that was already of record including a limited duty job offer, a nerve conduction study performed on September 30, 2002 and an Equal Employment Opportunity (EEO) investigative affidavit.

<sup>9</sup> Appellant also submitted a form wherein the Office authorized physical therapy from March 12, 2003 to April 15, 2003, and a prescription slip for a steering wheel grip for the condition of “tennis elbow, left elbow” signed by Dr. Gheraibeh. This evidence does not address appellant’s work capacity and is therefore not relevant to the claim.

With respect to the medical evidence post-dating July 15, 2002, the Board notes that as of July 18, 2002, Dr. Gheraibeh's duty status report indicates that appellant could perform light duty. On October 25, 2003 he stated that appellant was unable to perform her job duties but his opinion is unsupported by medical rationale and appears once again to be based on appellant's subjective complaints of pain. Furthermore, the Board notes that there is no objective evidence in the record from which to conclude that appellant was unable to perform her light-duty job on October 25, 2003 based on her work injury. Bilateral nerve conduction study results obtained on September 30, 2002 were interpreted as normal and are found to undermine Dr. Gheraibeh's disability opinion. Because appellant failed to submit rationalized medical evidence establishing a change in the nature and extent of her injury-related condition or that she was unable to perform the requirements of her light-duty job due to her accepted work-related condition of bilateral carpal tunnel syndrome, the Board concludes that she has failed to satisfy burden of proof to establish a recurrence of disability.<sup>10</sup> Consequently, the Board finds that the Office properly denied compensation.

The decisions of the Office of Workers' Compensation Programs dated May 9 and January 22, 2003 and October 24, 2002 are hereby affirmed.

Dated, Washington, DC  
October 21, 2003

Colleen Duffy Kiko  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>10</sup> Rationalized medical opinion evidence is medical evidence, which includes a physician's opinion based on a complete factual and medical backgrounds and includes medical rationale explaining the nature of the relationship of the diagnosed condition to the alleged periods of disability. *See generally Gloria J. McPherson*, 51 ECAB 441 (2000).