

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JACQUELINE M. RAPOSA and U.S. POSTAL SERVICE,
POST OFFICE, Delaware City, DE

*Docket No. 03-1563; Submitted on the Record;
Issued September 25, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has established that she sustained a recurrence of disability beginning April 23, 2003 due to her September 6, 2001 employment injury.

On September 26, 2001 appellant, a 35-year-old distribution window clerk, filed an occupational disease claim asserting that on September 6, 2001 she learned that she developed carpal tunnel syndrome and has attributed the condition to her repetitive work duties of loading and casing mail. On January 29, 2002 the Office of Workers' Compensation Programs accepted appellant's occupational disease claim for bilateral carpal tunnel syndrome and authorized carpal tunnel release on the right side on October 1, 2001. Appellant stopped work on September 29, 2001 and returned to limited duty on or about December 3, 2001.¹

On September 16, 2002 appellant filed a recurrence of disability claim alleging that she developed reflex sympathetic dystrophy (RSD) and experienced extreme pain as a result of her work-related right release surgery on October 1, 2001 such that she could not work after April 23, 2002.² On the reverse side of the claim, appellant's postmaster asserted that appellant had been fully accommodated within restrictions. The postmaster noted that a lighter cash drawer was obtained and a two-hour sorting time limit was observed and that, when appellant's restrictions increased, she came in to answer the telephone with no sorting or window service. Appellant filed various Form CA-7 claims for compensation requesting wage-loss compensation for the period October 5 to December 13, 2002 due to her alleged disability from work.

By decision dated February 12, 2003, the Office denied appellant's recurrence of disability claim on the grounds that the evidence submitted failed to demonstrate that the claimed condition resulted in any period of disability.

¹ The limited-duty job offer effective November 9, 2001 indicated duties of answering telephones, selling stamps and forwarding mail with restrictions of no lifting over five pounds and no repetitive motion with the right hand.

² The record reflects that appellant used leave to cover the period April 24 to September 26, 2002.

The Board finds that appellant has not established that she sustained a recurrence of disability beginning April 23, 2003 causally related to her September 6, 2001 employment injury.

Where 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 this 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.³

In the instant case, appellant is claiming compensation for total disability beginning April 23, 2002 as a result of reflex sympathetic dystrophy, which she developed following an October 1, 2001 surgery authorized by the Office to treat her accepted right carpal tunnel syndrome. The reports of record submitted by appellant described the accepted conditions related to repetitive work duties, the resulting October 1, 2001 surgery and subsequent pain complaints which led to appellant's diagnosis of RSD.

Dr. Evan Crain, a Board-certified orthopedic surgeon, began treating appellant for her carpal tunnel syndrome following the employment injury and performed the right release surgery on October 1, 2001. Following surgery he released appellant to limited duty with limitations on repetitive and fine manipulation of approximately 50 percent on December 3, 2001. In a report dated January 7, 2002, Dr. Crain indicated that appellant presented with complaints of pain that she asserted had progressively worsened since surgery. He noted that appellant indicated her belief that there was something out of the ordinary with the procedure; however, he asserted that nothing atypical occurred. Dr. Crain referred appellant for a nerve conduction study to evaluate her nerve function and, in a February 4, 2002 report, he indicated that the nerve conduction study showed some slowing across the carpal tunnel and cubital tunnel. He indicated that he did not believe appellant had signs of reflex sympathetic dystrophy.

Dr. Phyllis James, an attending Board-certified family practitioner, referred appellant to Dr. Peter Townsend, a Board-certified orthopedic surgeon, who on March 22, 2002 reviewed her employment and medical history and provided his findings on physical examination. He stated that appellant had a subluxing ulnar nerve which was keeping her ulnar nerve and medial elbow irritated and that she might have very mild RSD. Dr. Townsend noted that he would start appellant on stellate ganglion blocks for pain and that if there was no significant improvement, he would consider ulnar nerve stabilization. In a duty status report dated March 22, 2002, Dr. Townsend indicated that appellant could work in a limited capacity with no repetitive work or fine manipulation and restrictions of intermittent lifting up to 10 pounds.

Appellant submitted a report dated March 26, 2002 from Dr. Elizabeth Yasik, an attending Board-certified anesthesiologist, who discussed a right stellate ganglion block procedure performed that day under Dr. Townsend's direction. Dr. Yasik reported that appellant presented with right arm, neck and shoulder pain since her right carpal tunnel release and cubital

³ *Terry R. Hedman*, 38 ECAB 222 (1986).

tunnel release in October 2001. She related that following surgery appellant was placed in a cast postoperatively and that her pain began after the cast removal and had gradually worsened since then. Dr. Yasik indicated that the pain which appellant described as sharp, shooting and stabbing affected her sleep, work, daily activity and physical activities.

In an April 12, 2002 progress note from Dr. James, she also reported that appellant had surgery in October with no relief and that she was later diagnosed with RSD. She stated that appellant started receiving nerve blocks but that she continued to work which was extremely difficult because she experienced pain in both arms and neck.

In an April 16, 2002 progress note, Dr. Townsend reported that appellant had received two stellate ganglion blocks; however, the pain throughout her neck, shoulder, arm, elbow, wrist and fingers was not really improved. He noted that the etiology of appellant's pain was unknown and diagnosed complex regional pain syndrome. Dr. Townsend stated:

“[Appellant] then requested further work restrictions since she says her left arm is painful. I have given her work restrictions of no right-handed duty, moderate left-handed duty. [Appellant] then insisted that she had an EMG [electromyogram] which showed she had severe nerve damage on the left side. In reviewing her EMG's I found evidence only of a borderline carpal tunnel syndrome on the left and mention[ed] that this was not adequate enough to keep her out of work and that there is somewhat she can do with her left hand. [Appellant] seemed very frustrated and wanted to be completely removed from work....”

In a work restriction slip dated April 16, 2002, Dr. Townsend recommended no work with the right arm and moderate duty with the left arm until further notice.

In an April 25, 2002 progress note, Dr. James indicated that appellant's job required both arms and the ability to write, however, that she was unable to use her right arm or write messages. Dr. James stated that appellant was disabled from work for one month and that she should follow up with Dr. Townsend. In progress reports from May 24 to October 4, 2002, Dr. James further indicated that appellant was disabled from work.

In this case, the Board notes that appellant sustained bilateral carpal tunnel syndrome which required release surgery on the right as a result of employment factors. She returned to full-time limited-duty work on December 3, 2001. Appellant alleged that she developed RSD and experienced extreme pain as a result of her work-related right release surgery on October 1, 2001 such that she could not work after April 23, 2002. Appellant, however, has not submitted sufficient evidence to show that she was totally disabled from her light-duty position on or after April 23, 2002 due to her accepted employment injury or that her light-duty assignment changed such that she could no longer perform her duties. No physician provides an opinion that on or after April 23, 2002 appellant was disabled due to her work-related carpal tunnel syndrome or right arm surgery. Dr. James indicated in an April 2002 report that it was extremely difficult for appellant to work because she experienced pain in both arms and neck, however, noting that appellant remained symptomatic is not enough to discharge appellant's burden of proof. He further noted that appellant was totally disabled from light duty for various periods; however, he provided no clear opinion on the cause of the disability. Dr. Townsend also failed to clearly

indicate that the work-related carpal tunnel syndrome or surgery caused increased disability. In a duty status report dated March 22, 2002, Dr. Townsend determined that appellant could work in a limited capacity with no repetitive work or fine manipulation and restrictions of lifting no more than 10 pounds. In an April 16, 2002 progress note, Dr. Townsend found that because appellant's pain throughout the neck, shoulder, arm and elbow, wrist and fingers had not improved despite two nerve blocks he would further restrict her duties to no use of the right arm and moderate duty with the left. As noted by appellant's attorney in the record, it is not even clear that Dr. Townsend's newer restrictions would render appellant totally disabled.

As appellant failed to submit a rationalized medical report supporting that her September 26, 2001 employment injury resulted in her inability to perform her employment on or after April 23, 2002, the Office properly denied her claim for compensation.

The decision of the Office of Workers' Compensation Programs dated February 12, 2003 is affirmed.

Dated, Washington, DC
September 25, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member