

notified his supervisor on March 20, 2003. The Office accepted appellant's claim for a left rotator cuff tear sustained on January 28, 2003.

A magnetic resonance imaging scan taken on April 4, 2003 revealed supraspinatus tendinitis with a probable partial tear. The record includes a July 11, 2003 report from the Occupational Health Clinic, noting that appellant was treated that day for a left shoulder condition and that he "had problems with his left shoulder since military service [in] 1991."

On March 12, 2004 Dr. Patrick C. Ellis, an internist, released appellant to return to duty for an 8-hour day, with restrictions against lifting above the head, pulling or pushing no more than 1 hour a day, climbing and twisting no more than 2 hours and no lifting more than 10 pounds. On March 25, 2004 the Office offered appellant to work an 8-hour day with a lifting restriction of no more than 10 pounds and other duties as assigned within restrictions. On March 28, 2004 appellant accepted the limited-duty job offer.

In a report dated April 8, 2004, Dr. Matthew S. Davis, an internist, placed appellant on total disability from April 8 to 12, 2004, followed by a return to light duty. In a form report dated May 8, 2004, Dr. Ellis released appellant to an 8-hour workday with restrictions against lifting more than 10 pounds, pulling and pushing no more than 1 hour a day, climbing no more than 4 hours a day and a restriction against any reaching. In a report also dated May 8, 2004, Dr. Ellis noted a 20-pound lifting restriction, no overhead lifting and no reaching or pulling motions. In a report dated June 21, 2004, Dr. Eric M. Santos, an internist, stated that appellant was off work until July 6, 2004.

On June 22, 2004 appellant filed a CA-7 form for compensation from June 21 to July 6, 2004. The employing establishment noted that appellant was on leave without pay for those dates.

By letter dated August 6, 2004, the Office advised appellant that the information submitted in his June 22, 2004 claim for compensation was not sufficient to determine whether he sustained a recurrence of disability on June 21, 2004. The Office requested that he submit a statement explaining why he believed his current disability was related to his original work injury and to explain why he was incapable of working on June 21, 2004. The Office also caused him to explain the nature of any changes that may have occurred with respect to his work assignment. The Office also requested a medical opinion from his doctor regarding the relationship between appellant's ability to work and the accepted injury. The Office also asked that the doctor provide a history of injury, current medical examination findings including recent diagnostic test results, a firm diagnosis and treatment provided.

On August 4, 2004 appellant submitted a CA-7 form claim for compensation for that day and on August 12, 2004 he submitted a CA-7 form claiming compensation for intermittent hours from March 26 to April 12, 2004. In a report dated September 2, 2004, Dr. Santos stated that appellant was off work from June 21 to July 6, 2004, because he needed time to recover from his left shoulder impingement and tendinitis conditions.

By decision dated September 8, 2004, the Office denied appellant's claim for recurrence of disability on March 26, 2004 and compensation from March 26 to August 4, 2004. The Office authorized four hours of compensation for medical treatment on March 27, 2004.¹

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.² This term also means an inability to work when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force) or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.³

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 light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, 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.⁴

ANALYSIS

Appellant claimed that his disability beginning March 26, 2004 was due to a January 28, 2003 work-related left shoulder injury. The Office adjudicated the matter as a claim for a recurrence of disability. After his employment injury, appellant accepted a light-duty job offer on March 28, 2004 with restrictions consistent with those noted by Dr. Ellis, his attending physician. Therefore, appellant must show either a change in the nature and extent of his accepted left shoulder condition or a change in the nature and extent of the limited-duty assignment as the cause of his recurrence.

Initially, the Board notes that appellant is not alleging that his claimed recurrence has resulted from a change in the nature and extent of his limited-duty assignment. The record indicates that light duty consistent with medical restrictions was made available by the employing establishment. Consequently, the Board will examine whether the medical evidence

¹ Medical records indicate that appellant received treatment at a Veterans Administration facility on that date for an aggravation of his rotator cuff tear.

² 20 C.F.R. § 10.5(x).

³ *Id.*

⁴ *Shelly A. Paolinetti*, 52 ECAB 391 (2001); *Robert Kirby*, 51 ECAB 474 (2000); *Terry R. Hedman*, 38 ECAB 222 (1986).

shows a change in the nature of the injury-related condition. The Board finds that appellant did not submit medical evidence sufficient to establish that he sustained a recurrence of disability on the dates claimed for compensation.

Dr. Davis' April 8, 2004 medical report placing appellant on total disability did not address the cause of appellant's disability. The May 8, 2004 medical reports from Dr. Ellis advised that appellant could work in a limited-duty position with restrictions essentially similar to those noted in the limited-duty assignment appellant accepted on March 28, 2004. Dr. Ellis did not indicate in either report that appellant was totally disabled from his limited-duty position, for any particular periods, due to his employment injury. His reports therefore do not establish that appellant sustained a recurrence of disability on or after March 26, 2004. The Board has long held that medical reports not containing rationale on causal relation are entitled to little probative value.⁵ Thus, these reports are insufficient to establish appellant's claim.

In a June 21, 2004 report, Dr. Santos stated that appellant was off work from that date until July 6, 2004. However, he did not support his finding with a diagnosis establishing that appellant was unable to work as a result of any work-related injury.

In a report dated September 2, 2004, Dr. Santos noted that appellant's totally disability from June 21 to July 6, 2004 was caused by his need to rest his left shoulder due to impingement and tendinitis. However, these conditions have not been accepted as employment related. Dr. Santos provided inadequate medical reasoning to explain why appellant's disability was due to his January 28, 2003 employment-related left rotator cuff tear.

Other medical reports specifically address how any disability beginning March 26, 2004 resulted from the employment injury. The Board therefore finds the medical evidence of record insufficient to meet appellant's burden of proof to establish that he sustained a recurrence of disability on or about March 26, 2004 and was totally disabled as a result of the recurrence of disability for claimed dates causally related to the accepted left rotator cuff tear injury.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a recurrence of disability causally related to his accepted employment injury.⁶

⁵ *Annie L. Billingsley*, 50 ECAB 210 (1998).

⁶ The Board notes that this case record contains evidence which was submitted subsequent to the Office's September 8, 2004 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).

ORDER

IT IS HEREBY ORDERED THAT the September 8, 2004 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 11, 2004
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board