

a modified rural carrier. The Office expanded the claim to include the condition of herniated disc at L5-S1.¹

In a report dated October 2, 2001, Dr. Charles Alan Ross, a Board-certified family practitioner, advised that appellant was unable to perform the functions of her position and should be placed on permanent light duty, with no lifting, twisting or turning. He continued to submit periodic reports. In a March 8, 2002 duty status report, Dr. Ross advised that appellant could return to work with permanent restrictions of no lifting, twisting or turning. He advised a month of working 45 minutes with a 15-minute break and recommended a lumbar chair with arm rests. In an April 15, 2002 duty status report, Dr. Ross repeated his restrictions, and recommended no RTS and a single supervisor. In an April 26, 2002 duty status report, Dr. Ross indicated that appellant could not return to work and diagnosed tachycardia.

On April 23, 2002 the employing establishment offered the claimant a limited-duty job with duties of delivering express mail, inputting change of address cards, writing up accountables, labeling carrier cases and other general office duties. The offered job included restrictions of no lifting more than 5 pounds, 15-minute breaks every hour, no repetitive lifting, twisting, turning, and no RTS work. Appellant did not sign the job offer.

Appellant filed a Form CA-7 on May 28, 2002 in which she alleged that she was totally disabled from April 24, 2002.²

In reports dated May 28, 2002, Dr. Ross advised that appellant could not work as she was totally disabled. On a Form CA-20 of the same date, Dr. Ross stated findings on examination of intermittent straight leg raising, which was positive, and intermittent right lower extremity weakness, with weak dorsiflexion of the right foot.

On June 12, 2002 the Office notified the claimant of the factual and medical evidence needed to substantiate her claim for a recurrence of disability as of April 24, 2002.

Appellant submitted a narrative statement dated July 7, 2002 and copies of form reports by Dr. Ross dated between March 8 and May 28, 2002, and a report dated June 11, 2002. In his

¹ In a decision dated May 29, 1997, the Office advised appellant that she had been reemployed as a modified rural carrier and that it had determined that this position fairly and reasonably represented her wage-earning capacity. The Office further determined that appellant had no loss of wage-earning capacity. By a decision of June 15, 1999, the Office denied the claim for a recurrence of disability commencing February 22, 1999. By decision dated March 21, 2000, the Office denied the claim for a recurrence of disability commencing February 14, 2000. By decision dated August 7, 2000, the Office hearing representative affirmed the March 21, 2000 decision. By decision dated February 7, 2001, the Office denied appellant's claim for a recurrence of disability on December 4, 2000 as the evidence was insufficient to establish a causal relationship between the injury and the medical condition supporting recurrent disability causally related to the accepted 1995 injury or by factors of her federal employment.

² The record indicates that appellant filed a separate occupational disease claim on May 9, 2002 alleging that as of June 17, 2000 she developed two ruptured spinal discs as well as tachycardia due to her federal employment. The Office denied this by decision dated August 13, 2002 under claim No. 062059262. Appellant disagreed with the August 13, 2002 decision and requested a hearing, which was held on June 25, 2003 with regard to claim No. 062059262. By decision dated September 23, 2003, the Office hearing representative affirmed the August 13, 2002 decision.

June 11, 2002 report, Dr. Ross diagnosed ruptured lumbar disc, low back syndrome, and lumbar radiculitis. Dr. Ross opined that such conditions were “problematic to any occupation which involves lifting, bending or in the case of [appellant] involves even prolonged sitting (when she has been given minimal duty).” In her July 7, 2002 statement, appellant alleged that her light-duty job was changed in March 2002. She alleged that she was “required to gather up all my work from one table and move to another work area,” and that she moved as much as three times a day. Appellant explained that this “in itself was against my doctor’s work restrictions.” She referred to forms prepared by Dr. Ross in March and April 2002. Appellant alleged that she was told by her supervisor to sit and do nothing and that after two weeks of such duty she had an attack of tachycardia. She alleged that the employing establishment had not been able to offer her work within her medical restrictions.

Appellant filed a Form CA-7 on October 28, 2002, in which she alleged that she was totally disabled from April 24, 2002 to the present.

In identical decisions dated November 13 and 14, 2002, the Office denied the claim finding that the evidence of record did not establish a causal relationship between the claimed recurrence and the accepted 1995 injury for the period April 24 to May 31, 2002.

On November 26, 2002 appellant requested a hearing which was held on October 29, 2003.

In support of her claim, appellant submitted a statement dated November 18, 2003, and copies of previous reports by Dr. Ross and reports dated July 5 and August 16, 2002, and October 20, 2003.

In his July 5, 2002 report, Dr. Ross explained that he had filed numerous descriptions of appellant’s discomfort and disability due to back related pain and problems that resulted from employment. He advised that, over time, this was less and less tolerable such that “even light duty causes exacerbation of discomfort because of the fact that she is not able to engage for prolonged periods in seated activity or standing activity for prolonged periods.” Dr. Ross indicated that there were numerous attempts to accommodate appellant but there was never a satisfactory solution, causing appellant to step down from her light duty because of the “discomfort and aggravation it causes her.” Dr. Ross indicated that there continued to be provocation of appellant’s radicular symptoms that were at times documentable based on an exacerbation of her condition, but that many of appellant’s symptoms were based on her discomfort and inability to tolerate certain work settings.

In an August 15, 2002 duty status report, Dr. Ross opined that appellant was unable to return to work. In his August 16, 2002 report, he opined that appellant’s primary complaint was that her back condition was exacerbated by prolonged sitting, as well as lifting, bending and twisting while bearing a load and that all of these worsened her condition intermittently. Dr. Ross stated findings on examination of dorsiflexion weakness in both feet, and noted that an episode of tachycardia was brought on without any exertion at work, and was probably due to situational issues. He opined that “there does not seem to be a position at the [employing

establishment] that anyone has been able to provide for [appellant] that allows her to function in any kind of meaningful capacity as well as comfortable capacity.”

In a report dated October 20, 2003, Dr. Ross noted findings on examination which included no acute distress. He advised that appellant’s lumbar spine had some loss of lordosis and that dorsiflexion was intact to the feet, but slightly diminished in the great toe, with a minimal difference.

In a letter dated November 13, 2003, appellant’s husband submitted a brief summary of her claim, and her eventual “forced retirement” from the employing establishment.

By decision dated January 6, 2004, the Office hearing representative affirmed the November 13, 2002 decision.

LEGAL PRECEDENT

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 substantive 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 light-duty job requirements.³

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship, generally, is rationalized medical evidence.⁴ 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.⁵ 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.⁶

ANALYSIS

Appellant’s claim was accepted for a lumbar strain, and expanded to include herniated disc at L5-S1. She subsequently alleged a recurrence of total disability on April 24 to May 31, 2002. On June 12, 2002 the Office advised appellant of the type of medical and factual evidence needed to establish her claim for a recurrence of disability. However, appellant did not submit any medical reports which contained a rationalized opinion from a physician who, on the

³ *Richard E. Konnen*, 47 ECAB 388 (1996); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

⁴ *Elizabeth Stanislav*, 49 ECAB 540, 541 (1998).

⁵ *Duane B. Harris*, 49 ECAB 170, 173 (1997).

⁶ *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

basis of a complete and accurate factual and medical history, concluded that she had a condition which was causally related to the employment injury and supported that conclusion with sound medical reasoning.⁷ The Board also notes that there is no evidence showing a change in the nature and extent of the light-duty job requirements.

The medical reports with respect to the period April 24 to May 31, 2002 include several reports from Dr. Ross. In an April 26, 2002 duty status report, Dr. Ross indicated that appellant could not return to work and diagnosed tachycardia. However, tachycardia was not an accepted condition. Moreover, Dr. Ross did not explain how appellant's condition had worsened such that she was no longer able to perform her limited-duty work. This is especially true in light of the fact that he had recently indicated on March 8 and April 15, 2002, that appellant could perform light duty. In reports dated May 28, 2002, Dr. Ross again advised that appellant was totally disabled. However, he did not provide any opinion, to explain how appellant's condition had worsened such that she was no longer able to perform her limited-duty work.⁸

As appellant has not submitted any medical evidence showing that she sustained a recurrence of disability for the period April 24 to May 31, 2002 due to her accepted employment injury, she has not met her burden of proof.

CONCLUSION

The Board finds that appellant failed to provide rationalized medical evidence establishing that her claimed recurrence of disability for the period April 24 to May 31, 2002 was causally related to her October 20, 1995 employment injury. Therefore, the Office properly denied her claim for compensation.

⁷ See *Helen K. Holt*, 50 ECAB 279 (1999).

⁸ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

ORDER

IT IS HEREBY ORDERD THAT the decision of the Office of Workers' Compensation Programs' hearing representative dated January 6, 2004 is affirmed.

Issued: January 5, 2005
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member