

**United States Department of Labor
Employees' Compensation Appeals Board**

DENISE R. FORD, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Willits, CA, Employer**

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**Docket No. 04-1577
Issued: March 9, 2005**

Appearances:
Denise R. Ford, pro se
Office of the Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

JURISDICTION

On June 3, 2004 appellant filed a timely appeal from a June 18, 2003 merit decision of an Office of Workers' Compensation Programs' hearing representative decision, affirming a July 11, 2002 decision which denied a recurrence of disability as of September 12, 2001. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant sustained a recurrence of disability as of September 12, 2001 causally related to her accepted employment injuries.

FACTUAL HISTORY

Appellant, a 30-year-old rural carrier, filed a claim for benefits on January 8, 1999, alleging that she sustained a severe head injury on January 7, 1999 when her postal vehicle skidded on a patch of ice and struck a tree. The Office accepted the claim for concussion and skull fracture. The Office subsequently accepted conditions of right groin strain, low back strain and contusion of the right knee. On May 1, 2000 appellant filed a claim for benefits based on occupational disease,

alleging that she sustained a bilateral hand condition causally related to factors of her employment.¹ The Office accepted the claim for bilateral carpal tunnel syndrome. Appellant accepted a modified carrier position on October 7, 2000.

On May 15, 2002 appellant filed a notice of recurrence alleging that on September 11, 2001 she sustained a recurrence of disability due to her January 7, 1999 injury.

By decision dated July 11, 2003, the Office denied appellant compensation for a recurrence of disability due to her accepted head and bilateral carpal tunnel conditions. The Office found that she failed to submit medical evidence sufficient to establish that the claimed condition or disability as of September 2001 was caused or aggravated by her accepted conditions.

By letter dated July 31, 2002, appellant requested an oral hearing, which was held on July 31, 2002. She submitted an April 23, 2002 report from Dr. John Williams, an osteopath, who stated that he placed her on total disability on September 12, 2001 due to a knee disorder stemming from trauma received during her July 7, 1999 work-related postal vehicle accident. In a report dated August 8, 2002, he stated that appellant believed that her recurrence was related to both her July 7, 1999 motor vehicle accident and her bilateral carpal tunnel condition. Dr. Williams opined that the carpal tunnel condition was related to the motor vehicle accident because the mechanism of injury was the same. Therefore, he advised that the recurrence of disability which she sustained in September 2001 was an exacerbation of the condition which originated on July 7, 1999, the date of her vehicular accident.

Appellant also submitted treatment notes dated January 30 and May 23, 2001 from Dr. Leonard Gordon, Board-certified in orthopedic surgery.

By decision dated June 18, 2003, an Office hearing representative affirmed the July 11, 2002 Office decision.

LEGAL PRECEDENT

When an employee, who is disabled from the job 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 the reliable, probative and substantial evidence a recurrence of total disability. 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.²

ANALYSIS

In the instant case, the record does not contain any medical opinion showing a change in the nature and extent of appellant's injury-related conditions. Indeed, she has failed to submit

¹ The two claims were subsequently combined.

² *Terry Hedman*, 38 ECAB 222 (1986).

any medical opinion containing a rationalized, probative report which relates her condition or disability as of September 2001 to her employment injury. For this reason, she has not discharged her burden of proof to establish her claim that she sustained a recurrence of disability as a result of her accepted employment injury.

The only medical evidence which appellant submitted consisted of Dr. Williams' reports and the treatment notes from Dr. Gordon. The weight of the medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.³ Dr. Williams' reports provided a history of injury and a diagnosis of her current condition and indicated generally that appellant complained of disabling pain as of September 2001, but did not constitute a probative, rationalized medical opinion sufficient to establish that appellant's disability as of September 2001 was causally related to her accepted groin, knee, back, head and bilateral carpal tunnel conditions. Dr. Williams specifically indicated that appellant's alleged recurrence of disability was caused by a knee condition stemming from the July 7, 1999 motor vehicle accident. However, he did not explain the medical process through which any of her accepted conditions, including her knee, would have been competent to cause the alleged recurrence of disability. Dr. Williams' opinion, therefore, is of limited probative value as it does not contain any medical rationale explaining how or why appellant's accepted conditions are causally related to her alleged recurrence of disability.⁴ Dr. Gordon's treatment notes lack relevance because they are dated prior to September 2001, the alleged date of recurrence and she was paid benefits for a different recurrence claim in 2000. Neither Dr. Williams nor Dr. Gordon, therefore, related appellant's accepted conditions to her alleged recurrence of disability in September 2001 with probative, rationalized medical evidence.

The reports from Dr. Williams and Dr. Gordon do not constitute sufficient medical evidence demonstrating a causal connection between appellant's employment-related conditions and her alleged recurrence of disability. Causal relationship must be established by rationalized medical opinion evidence. The reports submitted by appellant failed to provide an explanation in support of her claim that she was totally disabled as of September 2001. Thus, these reports did not establish a worsening of appellant's condition and, therefore, do not constitute a probative, rationalized evidence demonstrating that a change occurred in the nature and extent of the injury-related condition.⁵

In addition, the Board finds that the evidence fails to establish that there was a change in the nature and extent of appellant's limited-duty assignment such that she no longer was physically able to perform the requirements of her light-duty job. The record demonstrates that she returned to work on October 7, 2000. Although appellant stopped working in September 2001, she has submitted no factual evidence to support a claim that a change occurred in the nature and extent of her limited-duty assignment during the period claimed. Accordingly,

³ See *Ann C. Leanza*, 48 ECAB 115 (1996).

⁴ *William C. Thomas*, 45 ECAB 591 (1994).

⁵ *Id.*

as appellant has not submitted any factual or medical evidence supporting her claim that she was totally disabled from performing her light-duty assignment in September 2001 as a result of her employment, she failed to meet her burden of proof. Thus, the Office properly found in its July 11, 2002 and June 18, 2003 decisions that she was not entitled to compensation based on a recurrence of her employment-related disability.

As appellant has not submitted sufficient medical evidence to establish that the claimed condition and disability as of September 2001 was caused or aggravated by her employment injury, she has not met her burden of proof in establishing that she sustained a recurrence of disability. The Board, therefore, affirms the June 18, 2003 Office decision affirming the July 11, 2002 denial of compensation based on a recurrence of disability causally related to her accepted December 3, 1991 employment injury.

CONCLUSION

The Board finds that appellant has not met her burden to establish that she was entitled to compensation for a recurrence of disability as of September 2001 causally related to her accepted right groin strain, low back stain, right knee contusion, bilateral carpal tunnel and head conditions.

ORDER

IT IS HEREBY ORDERED THAT the June 18, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 9, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member