

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

D.T., Appellant)
)
)
and) **Docket No. 06-1017**
) **Issued: December 28, 2006**
)
U.S. POSTAL SERVICE, POST OFFICE,)
Seattle, WA, Employer)
_____)

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 27, 2006 appellant filed a timely appeal of an April 20, 2005 merit decision of the Office of Workers' Compensation Programs, denying her claim for a recurrence of total disability. Pursuant to 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 total disability on December 8, 2003 and January 8, 2004 causally related to her employment-related tenosynovitis and carpal tunnel syndrome of the right wrist.

FACTUAL HISTORY

This case has previously been on appeal before the Board. In a September 30, 2003 decision, the Board affirmed the Office's termination of appellant's compensation benefits effective October 15, 2001 on the grounds that she had no continuing residuals or disability due

to her accepted employment-related tenosynovitis and carpal tunnel syndrome of the right wrist.¹ The law and the facts of the previous Board decision are incorporated herein by reference.²

On March 9 and April 19, 2004 appellant filed a claim alleging that she sustained recurrences of total disability on December 8, 2003 and January 8, 2004, respectively. She stated that she experienced numbness and pain in her right wrist for over one year, similar to symptoms she had been experiencing since 1975. In a July 1, 2004 letter, appellant stated that, on January 8, 2004, her symptoms became much more severe.

Appellant submitted a March 5, 2004 form report of Dr. Maureen M. Johnson, an attending physician Board-certified in internal and occupational medicines. Dr. Johnson stated that appellant sustained residual median nerve compression of the right wrist. She noted that appellant had not worked since 1975 and that the diagnosed condition was not caused by an employment activity.

Dr. Johnson stated in a March 26, 2004 form report that appellant had carpal tunnel syndrome. She indicated with an affirmative mark that this condition was caused by an employment activity. Dr. Johnson noted that the diagnosed condition had been present since 1975 and that appellant was totally disabled from that time period to the present.

In a March 5, 2004 narrative report, Dr. Johnson noted appellant's desire to appeal the termination of her compensation benefits. She stated that appellant had a new problem, cubital tunnel for which she was being treated. Dr. Johnson noted that electromyogram/nerve conduction study (EMG/NCS) test results, demonstrated mild motor and sensory abnormalities in the ulnar nerve at the right elbow and mild sensory abnormality in the right median nerve distribution. She stated that appellant's carpal tunnel syndrome was "probably" related to her initial carpal tunnel syndrome and complicated by coexisting medical problems which included diabetes, renal insufficiency, gout and exogenous obesity. Appellant also had ulnar nerve palsy with cubital tunnel that was being appropriately treated and visible signs of arthritis in the hands.

In a narrative report dated March 26, 2004, Dr. Johnson reiterated that appellant had carpal tunnel syndrome. She indicated that appellant was status post carpal tunnel release with some residuals.

Dr. Johnson's June 28, 2004 report stated that an electrodiagnostic study demonstrated persistent carpal tunnel sensory disturbance and prolongation of the ulnar nerve at the elbow, motor and sensory. Based on these findings, she opined that appellant's employment-related carpal tunnel syndrome had not completely resolved. Dr. Johnson related that appellant had a perception of disability which was probably not different from what she experienced while receiving wage-loss compensation for her employment-related conditions. She noted that appellant had been on time-loss for an extended period of time and had coexisting problems.

¹ Docket No. 03-1519 (issued September 30, 2003).

² On October 7, 1975 appellant, then a 27-year-old postal ZIP mail translator clerk, filed a claim for an occupational disease. She alleged that she injured her right wrist while keying a letter on a sorter machine. The Office accepted the claim for chronic tenosynovitis of the right wrist and right carpal tunnel syndrome. Appellant was terminated from her employment on November 7, 1975 and has not worked since.

Dr. Johnson noted that it was unlikely that appellant was going to return to regular and sustained employment.

By decision dated July 19, 2004, the Office found that appellant did not sustain recurrences of total disability on December 8, 2003 or January 8, 2004 causally related to her accepted employment-related tenosynovitis and carpal tunnel syndrome of the right wrist.

On August 4, 2004 appellant, through her attorney, requested an oral hearing before an Office hearing representative. In a March 8, 2005 report, Dr. Johnson noted appellant's work duties and history of carpal tunnel release surgery in 1988 and 1998 which failed to provide any relief. She further noted that appellant had the same right wrist symptoms. Dr. Johnson reported her findings on physical examination and diagnosed carpal tunnel syndrome that was initially related to flexor tendinitis and overuse with keying. She opined that appellant's current symptoms were compatible with carpal tunnel syndrome and flexor tendinitis of the right wrist and long finger. Dr. Johnson stated that these conditions were unchanged by the surgical interventions in the past and persisted. She indicated that the noted history was consistent with persistent residuals from the work-related carpal tunnel syndrome which did not improve after appellant's surgical procedures.

In a March 29, 2005 letter, Dr. Johnson reiterated that appellant had carpal tunnel syndrome. Her symptoms were consistent in the right hand and occasional in the left hand. Dr. Johnson stated that persistent abnormality in the median nerve at the wrist on the right and left sides was confirmed by an EMG/NCS.

By decision dated April 20, 2005, an Office hearing representative affirmed the July 19, 2004 decision. The evidence of record failed to establish that appellant sustained recurrences of total disability on December 8, 2003 or January 8, 2004 causally related to her tenosynovitis and carpal tunnel syndrome of the right wrist.

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.³

A person who claims a recurrence of disability has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability, for which she claims compensation is causally related to the accepted employment injury.⁴ Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between her recurrence of disability and her employment injury.⁵ This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a

³ 20 C.F.R. § 10.5(x).

⁴ *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

⁵ *Carmen Gould*, 50 ECAB 504 (1999); *Lourdes Davila*, 45 ECAB 139 (1993).

complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury.⁶ Moreover, the physician's conclusion must be supported by sound medical reasoning.⁷

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁸ In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁹ While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.¹⁰

ANALYSIS

The Office accepted that appellant sustained tenosynovitis and carpal tunnel syndrome of the right wrist due to her employment duties. On March 9 and April 9, 2004 she sought compensation for her ongoing right wrist problems. The Board finds that appellant has failed to submit sufficient rationalized medical evidence to establish that the claimed recurrent right wrist problems are causally related to her accepted employment-related tenosynovitis and carpal tunnel syndrome.

Appellant has submitted several reports from Dr. Johnson, her attending physician. In a March 5, 2004 form report, Dr. Johnson stated that appellant had residual median nerve compression of the right wrist. She opined that this condition was not caused by an employment activity. Dr. Johnson did not opine that appellant's continuing residuals were causally related to her employment-related tenosynovitis and carpal tunnel syndrome. Therefore, her report is insufficient to establish appellant's claim.

Dr. Johnson's March 26, 2004 form report stated that appellant sustained carpal tunnel syndrome. She indicated with an affirmative mark that the diagnosed condition was caused by an employment activity. Dr. Johnson's report does not provide any medical rationale explaining how or why appellant's current condition was caused by the accepted employment-related conditions and, therefore, it is insufficient to establish her claim. Without more by way of medical rationale explaining how the incident caused the injury is insufficient to establish causal relationship and is of diminished probative value.¹¹

⁶ *Ricky S. Storms*, 52 ECAB 349 (2001); *see also* 20 C.F.R. § 10.104(a)-(b).

⁷ *Alfredo Rodriquez*, 47 ECAB 437 (1996); *Louise G. Malloy*, 45 ECAB 613 (1994).

⁸ *See Ricky S. Storms*, *supra* note 6; *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁹ For the importance of bridging information in establishing a claim for a recurrence of disability, *see Richard McBride*, 37 ECAB 748 at 753 (1986).

¹⁰ *See Ricky S. Storms*, *supra* note 6; *Morris Scanlon*, 11 ECAB 384, 385 (1960).

¹¹ *See Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Lillian M. Jones*, 34 ECAB 379 (1982).

Dr. Johnson's March 5, 2004 narrative report provided EMG/NCS findings, which demonstrated mild motor and sensory abnormalities in the ulnar nerve at the right elbow and mild sensory abnormality in the right median nerve distribution. She opined that appellant's carpal tunnel syndrome was "probably" related to her initial carpal tunnel syndrome and complicated by coexisting medical problems which included diabetes, renal insufficiency, gout and exogenous obesity. Dr. Johnson's opinion regarding the cause of appellant's current right elbow and wrist conditions is speculative and equivocal in nature and, thus, of diminished probative value.¹² Her report is insufficient to establish appellant's claim.

Dr. Johnson's other reports stated that appellant had continuing residuals of her employment-related carpal tunnel syndrome and flexor tendinitis in the right wrist and longer finger based on EMG/NCS test results and that she was totally disabled for work. Dr. Johnson's opinion is of reduced probative value as she failed to provide medical rationale explaining how or why appellant's continuing residuals and disability were caused by the accepted employment-related conditions.¹³

Appellant has not submitted any rationalized medical evidence establishing that she sustained a recurrence of disability on December 8, 2003 and January 8, 2004 causally related to her accepted employment-related injuries. The Board finds that she has not met her burden of proof.

CONCLUSION

The Board finds that appellant did not sustain a recurrence of total disability on December 8, 2003 and January 8, 2004 causally related to her employment-related tenosynovitis and carpal tunnel syndrome of the right wrist.

¹² *Ricky S. Storms, supra* note 6 (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

¹³ *Franklin D. Haislah, 52 ECAB 457 (2001); Jimmie H. Duckett, 52 ECAB 332 (2001)* (medical reports not containing rationale on causal relationship are entitled to little probative value).

ORDER

IT IS HEREBY ORDERED THAT the April 20, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 28, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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