United States Department of Labor
Employees' Compensation Appeals Board

RODNEY WASHINGTON, Appellant	)	
and	)	**Docket No. 05-1906**
	)	**Issued: June 1, 2006**
U.S. POSTAL SERVICE, POST OFFICE, Alexandria, LA, Employer	)	

Appearances:
Daniel E. Broussard, Jr., Esq., for the appellant
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 September 12, 2005 appellant timely appealed an August 23, 2005 merit decision of the Office of Workers' Compensation Programs which denied his recurrence of disability claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this claim.

ISSUE

The issue is whether appellant met his burden of proof to establish a recurrence of disability commencing July 2, 2003 causally related to his accepted work injury.

FACTUAL HISTORY

On September 12, 1996 appellant, then a 41-year-old mail processor, claimed a traumatic injury to his left arm and wrist at work while pulling down mail. On June 20, 1997 the Office accepted that appellant had tenosynovitis of the left forearm and wrist as a result of work activities he performed over a period of time greater than one day. It paid appropriate compensation benefits. Appellant accepted a limited-duty assignment on September 25, 1996;

stopped work on January 8, 1997 and returned to limited duty on or about June 4, 2001. His duties included answering telephones, filing and shredding documents. All limited-duty assignments were performed at the Alexandria Post Office.

The record reflects that in 1994, prior to his claim, appellant had requested a transfer from the Alexandria Post Office to the Vidalia Post Office as an open carrier as he lived approximately two blocks from that facility. The employing establishment denied appellant's request on June 20, 1994. In a bench decision of March 25, 2003, the Equal Employment Opportunity (EEO) Commission determined that the decision to deny appellant's transfer request was made in reprisal for his prior EEO activities. The employing establishment was directed to transfer appellant to the Vidalia Post Office.

In a June 13, 2003 letter, the employing establishment requested that appellant provide updated medical documentation pertaining to his limited-duty status. It noted that he had not responded to an April 8, 2002 request for such information and that the most recent medical information was submitted on May 5, 2001. The employing establishment stated that the updated medical documentation was necessary for consideration of his transfer to the Vidalia facility. If the medical documentation was not received within 15 days, he would no longer be authorized for a limited-duty position. On July 2, 2003 the employing establishment notified appellant that he was no longer authorized for limited-duty work due to his failure to provide updated medical evidence in support of his limited-duty status. As of July 26, 2003, the employing establishment classified appellant's position as that of a regular city carrier.

On August 11, 2003 appellant filed a notice of recurrence of disability causally related to his September 12, 1996 accepted work injury. Appellant contended that his condition had not improved and that the claim was made for the purpose of reestablishing him to a limited-duty work status. He did not stop work. In an August 8, 2003 duty status report, Dr. Josh Mathew, a psychiatrist and neurologist, diagnosed C6 and C2 radiculopathy and right ulnar neuropathy. He opined that appellant was capable of working eight hours a day within specified restrictions.

On October 3, 2003 the employing establishment stated that appellant's transfer to the Vidalia postal facility was effective as of October 6, 2003. It noted, however, that the Vidalia facility could only provide appellant with approximately two hours of work a day within his prescribed restrictions depending on office needs. Appellant would be allowed to use leave of his choice for the remainder of each workday pending the Office's adjudication of his recurrence claim.

In a June 16, 2004 decision, the Office denied appellant's recurrence claim. It found that the medical evidence was not sufficient to establish that he sustained disability causally related to his accepted left wrist tenosynovitis.

On June 14, 2005 appellant requested reconsideration. Counsel contended that in 2003 appellant was performing limited duty as a clerk due to his accepted work injury at the time the EEO Commission Judge directed his transferred to the Vidalia facility as a letter carrier. He alleged that appellant sustained a recurrence of disability due to his transfer from the clerk to carrier position.

In a January 18, 2002 report, Dr. Yolanda O'Rourke, a Board-certified internist, diagnosed hypertension, history of peptic ulcer disease, status post left ulnar reposition, hyperlipidemia, depression and cervical radiculopathy with associated myofascial pain. She reported that appellant had been relegated to basic clerical duties and that repetitive motion with the left upper extremity and or lifting heavy objects caused pain. Dr. O'Rourke noted that appellant was restricted to lifting objects of two pounds or less and he was able to manage his restricted job duties. In progress reports dated through April 1, 2004, Dr. O'Rourke noted that an electromyogram (EMG) of April 11, 2000 showed no evidence of ulnar or radial neuropathy or carpal tunnel syndrome of the left upper extremity. A March 7, 2003 EMG showed evidence of a bilateral C5-6 radiculopathy, which was also present in 2000, with no electrophysiological evidence of any right ulnar neuropathy.

In an August 18, 2004 report, Dr. Maria Cruz-Lasrtiguat, a neurologist, noted that appellant had evidence of damage to the nerves supplying both arms and both legs. She stated that he should avoid repetitive movements of his back and neck and not engage in any tasks that required him to bend his back repeatedly or carry heavy objects in his arms. Dr. Cruz-Lasrtiguat opined that appellant was fully capable of engaging in and completing clerical and other duties that did not involve increasing the burden to his back and neck.

In a decision dated August 23, 2005, the Office accepted appellant's recurrence claim for medical purposes only. It denied appellant's wage-loss disability compensation or leave buy back as there was no medical evidence that appellant was incapacitated for work due to the accepted left wrist tenosynovitis condition.

LEGAL PRECEDENT

As used in the Federal Employees' Compensation Act,[1] the term "disability" means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.[2] 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] An employee claiming a recurrence of disability after returning to light duty has the burden of proof to establish 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 job requirements.[4]

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the

[1] 5 U.S.C. §§ 8101-8193.

[2] 20 C.F.R. § 10.5(f) (1999); *see Prince E. Wallace*, 52 ECAB 357 (2001); *see e.g., Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

[3] 20 C.F.R. § 10.5(x).

[4] *See Terry R. Hedman*, 38 ECAB 222 (1986).

reliable, probative and substantial medical evidence.[5] Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work. When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.[6] The Board will not require the Office to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.[7]

ANALYSIS

The Office accepted appellant's claim for left wrist tenosynovitis sustained as an occupational disease related to his federal employment. Appellant filed a recurrence of disability claim on August 11, 2003 following the removal of his limited-duty status on July 2, 2003. He indicated that he did not stop work. In order to establish disability for the period commencing July 2, 2003, appellant must submit rationalized medical evidence demonstrating that he became disabled for work due to residuals of his accepted employment injury.

On July 2, 2003 the employing establishment withdrew appellant's light-duty clerk assignment due to his failure to provide updated medical documentation to support his status. On October 6, 2003 it effected appellant's transfer to the Vidalia facility as a carrier but noted that limited-duty work was only available for two hours a day. To the extent that appellant is claiming total disability from July 2 to October 6, 2003, there is no evidence of any wage loss during this period as the record indicates he did not stop work.[8] The medical reports of record do not specifically address that appellant was disabled for work during this period. As previously noted, the Board will not require the Office to pay compensation for disability in the absence of medical evidence addressing the period of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.[9] Appellant has failed to meet his burden of proof to establish a recurrence of total disability from July 2 to October 6, 2003.

Appellant stated that he filed the claim because he wanted to be returned to his limited-duty status. The Board has no jurisdiction to address the employing establishment's removal of his limited-duty status due to any failure to submit medical documentation as this issue does not arise under the Act. The record establishes that the employing establishment was directed by the EEO Commission to transfer appellant to the Vidalia Post Office as a carrier. Having complied, the employing establishment was able to provide him with approximately two hours of limited-

[5] *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

[6] *Id.*

[7] *Id.*

[8] *See, e.g., Cheryl L. Decavitch*, *supra* note 2.

[9] *See Fereidoon Kharabi*, *supra* note 5.

duty work a day. With regard to any disability after October 6, 2003, the medical evidence of record does not establish that appellant sustained disability due to residuals of his accepted left wrist tenosynovitis condition. On August 8, 2003 Dr. Mathew noted limitations due to cervical radiculopathy and right ulnar neuropathy and recommended restrictions. On August 18, 2003 Dr. Cruz-Lasrtiguat submitted a brief note stating appellant was to avoid repetitive movements of his back and neck, but noted he was fully capable of engaging in clerical and other tasks. Neither physician addressed limitations in terms of the accepted left wrist tenosynovitis. Both physicians found that appellant could work full time within prescribed restrictions.[10] While appellant was diagnosed with bilateral C5-6 radiculopathy, the Office has not accepted this condition as related to the accepted occupational injury. There is no evidence of a change in the nature of his accepted injury-related condition. There is no indication that the limited duty available at the Vidalia Post Office is in any way contrary to appellant's restrictions. On appeal it is contended that appellant sustained a recurrence of his occupational disease "because of his transfer from clerk to carrier." However, the transfer to the Vidalia facility was based on the EEO Commission decision and appellant's stated preference to work as an open carrier at that location due to its convenience to his residence.[11]

Appellant has not met his burden of proof to establish that he sustained a recurrence of disability commencing July 2, 2003 causally related to his September 12, 1996 employment injury.

CONCLUSION

The Board finds that appellant has not established that his disability commencing July 2, 2003 is due to his September 12, 1996 employment injury.

[10] *Cf. Terry R. Hedman*, 38 ECAB 222 (1986).

[11] *Compare John W. Normand*, 39 ECAB 1378 (1988).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated August 23, 2005 is affirmed.

Issued: June 1, 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