

In a report dated November 3, 2004, Dr. Shahzad Mian, a specialist in ophthalmology, stated that he had examined appellant on October 4, 2004, the date she was sprayed in both eyes by a chemical liquid. Dr. Mian stated that appellant continued to have persistent light sensitivity in both eyes. He recommended that appellant wear sunglasses at work as long as this did not interfere with her activities.

On November 25, 2004 appellant returned to work in a light-duty position.

On January 17, 2005 appellant filed a Form CA-2a claim for a recurrence of disability.

In a memorandum to appellant dated November 19, 2004, the employing establishment stated:

“On October 10, 2004 you reported that you were sprayed in the eyes with cleaning chemicals by a contractor performing cleaning duties. You requested to be able to wear mirrored sunglasses while performing your duties at the checkpoint because your eyes have become very sensitive to light. You were told that you could not wear these sunglasses at the checkpoint because they do not present a professional appearance and there was concern that your vision while wearing them would not permit you to accurately read the x-ray equipment and perform your duties. You were given a limited[-]duty assignment to perform divestiture; however, you worked for only a few hours before you left, stating your eyes were hurting. You have called off each day since then.

“You recently indicated that you have obtained special glare resistant glasses which are not mirrored sunglasses that you would like to wear while working at the checkpoint. As [your supervisor] discussed with you, I am requesting that you come to FSD [Federal Security Director] staff office so we can evaluate whether these glasses present a professional appearance and whether your vision while wearing them would permit you to accurately read the x-ray equipment and perform or duties. We may ask that you take the Image Master Test while wearing the new glasses to assure us that you can properly read the x-ray machine.”

In a January 17, 2005 report, Dr. Marilyn K. Belamaric, a Board-certified ophthalmologist, related that appellant indicated that she had not experienced improvement in her bilateral eye condition since the October 4, 2004 work incident. Appellant related that the pain in both eyes was chronic, moderate and stabbing; she rated it a 3 on a scale of 1 to 10. She stated that her symptoms, which also included blurred vision and photophobia, were exacerbated by light. Dr. Belamaric reiterated the diagnosis of chronic keratoconjunctivitis. In a report dated January 31, 2005, Dr. Belamaric related that she had examined appellant on January 24, 2005, at which time she had superficial punctate keratopathy in both eyes causing photophobia. She stated that appellant required tinted lenses to relieve her light sensitivity.

Appellant submitted a Form CA-7 dated February 6, 2005, requesting compensation for intermittent wage loss from October 5, 2004 through January 20, 2005. She indicated on the form that she had been placed on limited duty to accommodate her work restriction of having to wearing sun glasses while performing her duties. Appellant also stated on the form that she returned to work on November 3, 2004.¹

By letter dated March 24, 2005, the Office requested a supplemental report from Dr. Belamaric. The Office requested a clarification, based upon medical evidence and current objective findings, of whether dark mirrored glasses, specifically purple mirrored glasses, were medically necessary for appellant to perform her job duties as a screener. The Office asked Dr. Belamaric, in the event glasses were needed, whether glare resistant glasses be sufficient for her employment.² Dr. Belamaric did not respond to this request.

By decision dated August 8, 2005, the Office denied appellant compensation for a recurrence of her accepted keratoconjunctivitis condition. The Office stated that appellant was fitted with special glare-resistant glasses which were deemed acceptable and enabled her to return to work on light duty on November 25, 2004. The Office noted that she stopped work on January 17, 2005 and indicated that she would only return if allowed to wear mirrored sunglasses, which the employing establishment forbid her from wearing. The Office found that appellant did not submit any supporting medical evidence indicating that she needed the mirrored sunglasses to work instead of the special anti-glare, tinted sunglasses she had been prescribed due to her accepted keratoconjunctivitis. The Office noted that Dr. Belamaric had opined on January 31, 2005 that appellant required tinted glasses to relieve her light sensitivity, but had not responded to its requests to submit a rationalized medical opinion that required the mirrored sun glasses she preferred.

By letter dated August 20, 2005, appellant's attorney requested an oral hearing. Appellant submitted a May 3, 2005 report from Dr. Belamaric, who related that she had treated appellant on October 6, 2004, a few days after she had a chemical splashed in both eyes. Dr. Belamaric stated:

“Examination with the slit lamp biomicroscope revealed mild superficial punctate keratitis. She was treated with tobradex ophthalmic solution four times a day in both eyes. On October 11, 2004 her vision was 20/25 in each eye but she complained of photophobia and light lamp exam[ination] revealed persistent mild keratitis. On October 15, 2004 she was examined and all keratitis had resolved.... She returned on January 24, 2005 and had complaints of severe photophobia. She

¹ Appellant actually stated on the form that she returned to full duty on November 3, 2004, but this is not accurate. She was deemed to be on light duty by virtue of the fact that she returned to work wearing tinted sun glasses to accommodate her accepted keraconjunctivitis condition. In addition, while there are several dates in the record listed as the date appellant returned to work, the Office stipulated that she accepted the offer of light duty on November 3, 2004 and actually began work at this position on November 25, 2004.

² These duties included identifying dangerous objects in baggage, cargo and/or in passengers and preventing those objects from being transported onto aircraft; operating a wand, conducting pat down searches, operating x-ray machines, lifting baggage up to 70 pounds and screening and review tickets using electronic and imaging equipment.

was noted to have dry eyes and mild peripheral keratitis. She was placed on restasis drops. Punctum plugs were placed on April 8, 2005 to relieve her dry eye syndrome.

“She continued to complain of severe photophobia and on April 20, 2005 we recommended tinted lenses and a referral to Dr. Jayne Weiss, another corneal specialist to help determine why her symptoms are so severe and appear out of proportion to the objective findings.”

By decision dated July 12, 2006, an Office hearing representative affirmed the August 8, 2005 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.³

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 condition. Indeed, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her condition or disability as of January 17, 2005 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 January 17 and 31, 2005 reports from Dr. Belamaric, appellant’s treating physician, whose reports provided a history of injury and a diagnosis of her current condition and indicated generally that appellant complained of disabling pain as of January 17, 2005. Dr. Belamaric stated that on January 17, 2005 appellant experienced chronic, moderate pain in both eyes, as well as blurred vision and photophobia. She noted that appellant’s symptoms were exacerbated by light. Dr. Belamaric reiterated these diagnoses in her January 31, 2005 report. However, Dr. Belamaric did not provide any rationalized, probative medical opinion sufficient to establish that appellant’s disability as of January 17, 2005 was causally related to her accepted October 4, 2004 employment injury.

Dr. Belamaric’s reports do not constitute sufficient medical evidence demonstrating a causal connection between appellant’s employment injury 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

³ *Terry Hedman*, 38 ECAB 222 (1986).

she was totally disabled as of January 17, 2005. Dr. Belamaric noted that appellant's complaints appeared to be inconsistent with her objective examination findings. Thus, these reports did not establish a worsening of appellant's condition and, therefore, do not constitute probative, rationalized opinion evidence demonstrating that a change occurred in the nature and extent of the injury-related condition.⁴

Following the August 8, 2005 decision, appellant requested a hearing and submitted Dr. Belamaric's May 3, 2005 report. Dr. Belamaric stated findings on examination, discussed her treatment of appellant and noted her complaints of photophobia, persistent, mild keratitis and dry eyes. She prescribed restasis drops and punctum plugs to relieve appellant's dry eye syndrome and recommended tinted lenses for her photophobia. Dr. Belamaric also recommended referral to a corneal specialist to determine why her symptoms were so severe and disproportionate to the objective findings. Dr. Belamaric, however, did not present any rationalized opinion evidence which related appellant's claimed disability as of January 17, 2005 to her accepted keratoconjunctivitis condition. Neither did appellant submit additional evidence demonstrating a change in the nature and extent of her limited-duty assignment.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. Appellant informed the employing establishment that she required special glare-resistant sunglasses in order to return to work as a screener because her eyes had become very sensitive to light. The employing establishment arranged for appellant to wear these tinted sunglasses upon her return to work in order to evaluate whether these glasses presented a professional appearance and determine whether she would be able to accurately read the x-ray equipment and perform her duties while wearing them. Appellant passed her evaluation and resumed working limited duty as a screener, wearing her sunglasses, on November 25, 2004. The record indicates that she was able to work at her screener job with these sunglasses until January 17, 2005, when she alleged that she experienced a recurrence of her work-related keratoconjunctivitis condition because she needed to wear her mirrored sunglasses in order to continue working. At this time the employing establishment reiterated its prior objection to appellant's usage of these mirrored sunglasses at the airport security checkpoint because they did not present a professional appearance; it also restated its concern that she would not be able to accurately read the x-ray equipment and perform her duties while wearing them.

The only evidence appellant submitted in support of her claim was Dr. Belamaric's January 31, 2005 report, which merely stated that she required tinted lenses to relieve her light sensitivity. The Office asked Dr. Belamaric to submit a report discussing whether appellant required mirrored glasses to perform her work duties and protect her light-sensitive eyes; however, Dr. Belamaric did not respond to the Office's request. Therefore, although appellant stopped working on November 25, 2004, she has submitted no additional factual or medical evidence to support a claim that a change occurred in the nature and extent of her limited-duty

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

⁵ As noted above, Dr. Belamaric reiterated her recommendation that appellant wear tinted glasses, not the mirrored sunglasses which appellant claimed she needed in order to return to work.

assignment during the period claimed. Accordingly, as appellant has not submitted any factual or medical evidence supporting her claim that she was totally disabled from performing her light-duty assignment on January 17, 2005 as a result of her accepted keratoconjunctivitis condition, appellant failed to meet her burden of proof. The Office properly found in its August 8, 2005 decision that appellant was not entitled to compensation based on a recurrence of her employment-related disability.

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 January 17, 2005 causally related to her accepted keratoconjunctivitis condition.

ORDER

IT IS HEREBY ORDERED THAT the July 12, 2006 and August 8, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 22, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board