United States Department of Labor
Employees' Compensation Appeals Board

F.L., Appellant	)	
	)	**Docket No. 06-687**
and	)	**Issued: October 2, 2006**
	)	
U.S. POSTAL SERVICE, POST OFFICE, Ponchatoula, LA, Employer	)	

Appearances:
F.L, 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

JURISDICTION

On February 2, 2006 appellant filed a timely appeal from a December 23, 2005 merit decision of the Office of Workers' Compensation Programs, denying modification of the finding that she did not sustain a recurrence of total disability on May 13, 2003 and beginning July 7, 2003. 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 has established that she sustained a recurrence of total disability on May 13, 2003 and beginning July 7, 2003 causally related to her February 27, 1997 employment injury and the accepted carpal tunnel syndrome of the right wrist.

FACTUAL HISTORY

On March 6, 1997 appellant, then a 41-year-old rural carrier, filed a traumatic injury claim assigned number 16-0294452 alleging that on February 27, 1997 she hurt her lower neck as a result of a motor vehicle accident while in the performance of her work duties. By letter

dated April 16, 1997, the Office accepted her claim for cervical strain. On November 10, 1997 appellant returned to limited-duty work.

On March 20, 1998 appellant filed a claim for an occupational disease assigned number 16-0313190 alleging that on January 4, 1998 she first became aware of carpal tunnel syndrome in her right wrist. She further alleged that on February 21, 1998 she first realized that this condition was caused by factors of her federal employment. Appellant attributed her carpal tunnel syndrome to repetitive use of her right hand and fingers while casing bulk mail. She stopped work on February 17, 1998. By letter dated April 28, 1998, the Office accepted her claim for carpal tunnel syndrome of the right wrist and authorized right carpal tunnel release surgery.[1] Appellant returned to limited-duty work on August 10, 1998. She accepted another limited-duty position on January 11, 1999.[2]

In reports dated May 12, 2000, Dr. Nancy L. Rogers, an attending Board-certified neurologist, released appellant to return to work eight hours a day with restrictions. She was limited to intermittent walking and standing 2 hours a day, twisting 30 minutes a day, bending 1 hour a day and lifting not to exceed 10 pounds 1 hour a day, no squatting, climbing, kneeling, repetitive stamping due to carpal tunnel syndrome and a cervical condition and writing for more than 20 minutes at a time. Appellant was allowed to take 15-minute breaks every 2 hours.

On May 26, 2000 appellant returned to work in a full-time modified rural carrier position based on the physical restrictions set forth by Dr. Rogers. Her duties involved, among other things, sitting at a desk while answering the telephone, lining out nixie mail, document filing and lobby sweeps.

On June 11, 2003 appellant filed a claim (Form CA-2a) alleging that she sustained a recurrence of total disability on May 12, 2003. She attributed the alleged recurrence of total disability to repetitive bending of her neck when looking down over her desk and turning to the side to look to get out of her chair. Appellant stopped work on May 13, 2003 and returned to work on the May 14, 2003.

In a May 27, 2003 report, Dr. Rogers noted appellant's symptoms of tightness in the neck prior to the onset of headaches, severe right hand numbness especially at night and neck pain and stiffness at work. She had difficulty with handling the telephones in that picking up the receiver and holding it to her ear aggravated her neck pain. Dr. Rogers noted a history of the February 27, 1997 employment injury and medical treatment for cervical strain and carpal tunnel syndrome. She diagnosed cervical sprain with post-traumatic cervical spondylosis, severe cervicalgia and intractable headache, right carpal tunnel syndrome. Dr. Rogers opined that appellant's symptoms were aggravated by current occupational stresses. She recommended

[1] On February 28, 2000 the Office doubled appellant's claims assigned numbers 16-0294452, 16-0313190 and 16-0329755 into a master case file assigned number 16-0294452.

[2] On March 17, 1999 appellant filed a CA-2 form assigned number 16-0329755 alleging that in June 1997 she first realized that factors of her employment aggravated her neck conditions, depression and sleep disorder. By letter dated May 27, 1999, the Office accepted her claim for cervical strain.

protection from repetitive hand motions and a handless headset to ease her telephone duties and to avoid aggravation of her carpal tunnel syndrome and cervical conditions.

In an undated letter, received by the Office on July 25, 2003, appellant contended that she was unable to perform her work duties because she could not hold the telephone to her ear over a minute and her hand hurt. In a July 1, 2003 report, Dr. Rogers found that appellant's cervical, headache and right carpal tunnel syndrome conditions were aggravated by her work duties and prevented her from performing her usual work duties as a rural postal carrier.

By letter dated July 29, 2003, the Office advised appellant about the factual and medical evidence she needed to submit to establish her recurrence of total disability claim.

On July 31, 2003 the Office received a claim for compensation (Form CA-7) for the period July 8 to 31, 2003, which was signed by appellant on July 21, 2003. The employing establishment indicated that modified work was still available. Dr. Rogers' July 18, 2003 attending physician's report diagnosed post-traumatic cervical spondylosis. She indicated with an affirmative mark that the diagnosed condition, as well as, carpal tunnel syndrome, was caused by the February 27, 1997 employment injury. Dr. Rogers stated that the latter condition was also caused by repetitive hand motion.

In a June 13, 2003 memorandum, Lloyd C. Olsen, an employing establishment sales and service associate, noted several incidents in which Postmaster David Olivier harassed customers and appellant. He contended that these incidents caused her to suffer from increased frequency and intensity of headaches.

In an August 26, 2003 report, Dr. Rogers diagnosed severe headaches that resolved since appellant was relieved of her work duties. She reiterated the accepted employment injuries.

By letter dated August 4, 2003, appellant attributed her total disability to her accepted employment injuries and factors of her employment. She contended that Postmaster Olivier required her to perform duties that were outside her job description. Appellant stated that she was overworked in that she had to assume the responsibilities of a window clerk during a staff shortage, in addition to performing her own work duties. As a result she had achy hands and a stiff neck and took leave from work during the period July 1 through 6, 2003. When appellant returned to work, her workload was overwhelming which aggravated her hand and neck conditions.

Statements from appellant's coworkers indicated that she and other employees were verbally harassed by the employing establishment. A June 15, 2003 letter from Beverly C. Galatas, an aquatics specialist, indicated that appellant participated in her water aerobics classes for several years, three to five days a week and that on some days it was obvious that she had a horrible headache.

By letter dated October 16, 2003, the Office advised appellant that the evidence submitted in support of her Form CA-7 was insufficient to establish her claim. It further advised her about the factual and medical evidence she needed to submit to establish her claim.

Dr. Rogers' October 28, 2003 report reiterated findings set forth in her August 26, 2003 report. Her October 28, 2003 prescription ordered medication and therapeutic exercises for appellant.

On November 18, 2003 appellant filed another Form CA-7 claiming compensation beginning July 8, 2003 until whenever she received a job. The employing establishment controverted appellant's claim. It stated that limited-duty work was still available within her medical restrictions. It further stated that she voluntarily stopped working and that her desire to work as a postmaster involved unlimited work outside her restrictions.

By letter dated January 8, 2004, the Office requested that Dr. Rogers explain the medical connection between appellant's current headaches and the accepted employment injuries. It also requested that she complete an accompanying work tolerations limitations form based on her assessment of residuals related to the February 27, 1997 employment injury. By letter of the same date, the Office requested that the employing establishment submit a detailed description of appellant's limited-duty position.

In a January 22, 2004 letter, the employing establishment stated that appellant had never been asked to work outside her medical restrictions. An accompanying job description included various duties that could be performed intermittently to allow her to take breaks from repetitive motions. Postmaster Kenneth Golden confirmed that there was no documentation of appellant performing repetitive work for eight hours such as, lining out bar codes on 250 letters. At no time was she denied work as the employing establishment maintained a reputation for accommodating its employees who were injured while on duty with modified work assignments. She was asked to submit a copy of her restrictions if they had changed but she chose to stop working and file a recurrence of total disability claim.

On February 4, 2004 the Office received a Form CA-2a signed by appellant on November 3, 2003 alleging that on July 7, 2003 she sustained a recurrence of total disability. Appellant stated that she was overworked and was required to push, pull and unload carts of mail and box and stamp mail on a repetitive basis. She was further required to line out barcodes on letters, work with the forward mail system, telephone main offices about inquiries related to delayed mail, send out second notices, perform lobby sweeps to eliminate a line for customers, input data and check in carriers. Appellant stated that she either wanted compensation beginning July 8, 2003 or a postmaster position upon approval of her claim.

The employing establishment contended that appellant was given assignments and a schedule according to her current restrictions. It noted that job modification had been accepted by her.

In a November 24, 2003 statement received by the Office on February 4, 2004, Postmaster Golden related that appellant had never been asked to work outside her medical restrictions. In fact, she was told by her supervisors not to work outside her restrictions and was instructed to inform them if she was told to do so. Appellant never informed her supervisors that she worked outside her medical restrictions. Postmaster Golden denied that appellant was required to perform repetitive tasks and that no work was available for her. He noted that, when she asked the employing establishment to sign a statement saying that no work was available for

her, it requested her to submit a copy of her restrictions but she failed to do so. Postmaster Golden described the duties of a postmaster and stated that appellant would not be able to perform these duties due to her medical restrictions.

By decision dated September 23, 2004, the Office denied appellant's recurrence of total disability claim. The evidence submitted by appellant was insufficient to establish that she sustained a recurrence of total disability on May 13, 2003 and beginning July 7, 2003 causally related to her February 27, 1997 and February 17, 1998 employment injuries.

In an undated letter received by the Office on May 12, 2005, appellant requested reconsideration. She attributed her recurrence of total disability to being harassed by the employing establishment and stress related to her financial problems arising from only working part time. A July 23, 2003 settlement agreement regarding a complaint appellant filed against the employing establishment for harassment, provided that, upon her return to work, she would be treated with dignity and respect by all employees and that management would insure a hostile free work environment.

In reports dated February 21 and April 27, 2005, Dr. Rogers opined that appellant should not engage in repetitive hand motions that aggravated her carpal tunnel syndrome. In an October 21, 2005 report, she found that appellant's right carpal tunnel syndrome symptoms were worsening due to increased repetitive use of the right upper extremity. Appellant experienced an increase in the volume of telephone calls due to damage resulting from hurricanes Katrina and Rita without the benefit of a portable telephone and headset. On October 21, 2005 Dr. Rogers prescribed aquatic therapy four times a week for six months for appellant.

On December 23, 2005 the Office issued a decision, denying modification of the September 23, 2004 decision. The Office found that the evidence submitted by appellant was insufficient to establish that she sustained a recurrence of total disability on May 13 and beginning July 7, 2003 causally related to her February 27, 1997 and February 17, 1998 employment injuries.

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] This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force), or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.[4]

[3] 20 C.F.R. § 10.5(x).

[4] *Id.*

When an employee who is disabled from the job she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that she can perform the limited-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and to show that she cannot perform such limited-duty work. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the limited-duty job requirements.[5]

To show a change in the degree of the work-related injury or condition, the claimant must submit rationalized medical evidence documenting such change and explaining how and why the accepted injury or condition disabled the claimant for work on and after the date of the alleged recurrence of disability.[6]

ANALYSIS

In this case, the record shows that, following the accepted February 27, 1997 cervical strain and employment-related right carpal tunnel syndrome, appellant returned to work in a limited-duty capacity on May 26, 2000. Appellant claimed that she sustained a recurrence of total disability causally related to her accepted employment injuries due to a change in her limited-duty work assignment. She stated that she engaged in repetitive bending of her neck, pushing, pulling, unloading carts of mail, boxing and stamping mail. In addition, appellant used her hand to reach above her shoulder to answer the telephone and she was unable to hold the telephone to her ear for over one minute. She stated that she had to perform the duties of a window clerk during a staff shortage, line out barcodes and conduct lobby sweeps and which aggravated her accepted employment-related cervical and carpal tunnel syndrome. The Board notes that, with the exception of working as a window clerk, the duties noted by appellant are contained in a description of her modified rural carrier position. Further, the medical record does not show that she was restricted from working as a window clerk.

Appellant submitted Dr. Rogers' May 27 and July 1, 2003 reports who diagnosed cervical sprain with post-traumatic cervical spondylosis, severe cervicalgia and intractable headache, right carpal tunnel syndrome. Dr. Rogers opined that appellant's symptoms were aggravated by current occupational stresses such as, difficulty with handling the telephones because picking up the receiver and holding it to her ear aggravated her neck pain, which prevented her from performing her usual work duties as a rural postal carrier. In reports dated February 21 and April 27, 2005, she opined that appellant should not engage in repetitive hand motions that aggravate her carpal tunnel syndrome. In an October 21, 2005 report, Dr. Rogers found that appellant's right carpal tunnel syndrome symptoms were worsening due to increased repetitive use of the right upper extremity. Appellant experienced an increase in the volume of telephone calls due to damage resulting from hurricanes Katrina and Rita without the benefit of a portable telephone and headset. Dr. Rogers appears merely to be repeating appellant's assertions regarding her work duties. The record does not establish that appellant's work exceeded her limited-duty restrictions. Thus, Dr. Rogers' opinion on causal relationship, due to a change in

[5] *Barry C. Petterson*, 52 ECAB 120 (2000); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

[6] *James H. Botts*, 50 ECAB 265 (1999).

limited-duty requirements, is of diminished probative value.[7] The record is void of evidence indicating that there was a change in the nature and extent of the limited-duty requirements or that appellant was required to perform duties which exceeded her medical restrictions.

The employing establishment stated that appellant's limited-duty position complied with her medical restrictions including breaks from work duties. Appellant was never asked to work outside her medical restrictions. The employing establishment further stated had a reputation for accommodating the restrictions of its injured employees. Postmaster Golden stated that appellant's supervisors told her not to work outside her medical restrictions and instructed her to advise them if she was asked to do so. Appellant never advised her supervisors that she worked outside her restrictions. Postmaster Golden stated that modified work was available and that appellant voluntarily stopped working. He related that, when she asked the employing establishment to sign a statement indicating that no work was available, she failed to respond to its request that she submit a copy of her medical restrictions. Postmaster Golden stated that appellant could not work as a postmaster because her medical restrictions prevented her from performing the duties of this position.

Based on the employing establishment's statements, the Board finds that appellant's limited-duty job requirements did not change. Thus, the issue is whether the medical evidence establishes that appellant was unable to perform the limited-duty position on May 13, 2003 and beginning July 7, 2003 based on the CA-2a forms she filed.

Dr. Rogers' August 26 and October 28, 2003 reports found that appellant's severe headaches had resolved since she was relieved of her work duties and that the February 27, 1997 accepted cervical strain and the employment-related right carpal tunnel syndrome prevented her from performing her usual work duties as a rural postal carrier. However, she failed to provide medical rationale explaining how or why appellant's recurrence of total disability was caused by the accepted employment injuries. Dr. Rogers' reports are insufficient to establish appellant's claim.

Dr. Rogers' July 18, 2003 report found that appellant sustained post-traumatic cervical spondylosis. She indicated with an affirmative mark that her condition was caused by the February 27, 1997 employment injury. Dr. Rogers' report is insufficient to establish appellant's claim as a report which only addresses causal relationship with a checkmark 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.[8]

On October 28, 2003 and October 21, 2005 Dr. Rogers prescribed aquatic and therapeutic exercises for appellant. This evidence fails to address whether appellant sustained a recurrence of total disability causally related to the accepted employment injuries during the claimed periods. Thus, Dr. Rogers' prescriptions are insufficient to establish appellant's claim.

[7] Medical conclusions based on inaccurate or incomplete histories are of diminished probative value. *Beverly R. Jones*, 55 ECAB ___ (Docket No. 03-1210, issued March 26, 2004).

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

Mr. Olsen, a sales and service associate, stated that an increase in the frequency and intensity of appellant's headaches was due to being harassed by Postmaster Olivier. Ms. Galatas, an aquatics specialist, stated that it was obvious during her water aerobics classes that appellant had a horrible headache. As a lay person, Mr. Olsen and Ms. Galatas do not qualify as a "physician" under the Federal Employees' Compensation Act. Therefore, their opinions have no probative value.[9]

The Board finds that appellant has not established a change in the nature and extent of her limited-duty work on May 13, 2003 and beginning July 7, 2003. Further, the Board finds that she has not submitted sufficiently rationalized medical evidence establishing that she was totally disabled on May 13, 2003 and beginning July 7, 2003 due to her February 27, 1997 and February 17, 1998 employment-related cervical strain and right carpal tunnel syndrome. Therefore, the Board finds that appellant has not established a recurrence of total disability on May 13, 2003 and beginning July 7, 2003 causally related to her accepted employment injuries.

CONCLUSION

The Board finds that appellant has failed to establish that she sustained a recurrence of total disability on May 13 and beginning July 7, 2003 causally related her February 27, 1997 accepted employment injury and accepted carpal tunnel syndrome of the right wrist.

ORDER

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

Issued: October 2, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

[9] 5 U.S.C. § 8101(2); *see also James A. Long*, 40 ECAB 538 (1989).