



The Office terminated appellant's compensation effective February 7, 1997 on the grounds that she abandoned suitable work, but it later reversed this termination because it had not adequately advised her regarding the consequences of abandoning limited duty.

On March 30, 2000 the employing establishment terminated appellant's compensation for failure to be in regular attendance and for taking unscheduled leave without pay.<sup>1</sup> On June 11, 2001 appellant claimed that she sustained a recurrence of total disability as of April 1, 2000 due to her accepted employment injuries.<sup>2</sup>

On July 7, 2000 Dr. Thomas E. Williamson-Kirkland, an attending Board-certified physical medicine and rehabilitation physician, stated that appellant had pain complaints in her hands that were "not very consistent," that she showed pain behavior upon wrist flexion and extension which was "quite outlandish" and that she had greater wrist motion than she exhibited upon testing. Dr. Williamson-Kirkland indicated that appellant's elbow range of motion was normal and noted that each time he tried to test her muscle strength she "just gives up and quits." He stated that appellant was a "complex woman who has had years of confrontation with the employing establishment, probably because of underperformance of her job." Dr. Williamson-Kirkland recommended that appellant either increase her medications, continue working in a more supportive environment or apply for disability retirement. He stated:

"I cannot really define whether [appellant] has a specific pathology at the moment, except a mild arthritis around her elbows, but full range of motion. Her wrist to me, look[s] more like this is a psychologically loose-induced dysfunction and it is probably related to the stress at the [employing establishment] and the stress and fear of being fired. I almost agree with the Group Health psychologist, that this looks like a post-traumatic stress syndrome in which [appellant] has been psychologically traumatized enough, at least in her mind, that she is extremely afraid to go to work, extremely afraid to function, but on the other hand extremely afraid not to. She has become very disabled at work and at home."

On June 1, 2001 Dr. Anton Posch, an attending Board-certified family practitioner, stated that appellant had reported that she had not experienced any improvement or worsening of her medical condition in the past six months. He diagnosed bilateral wrist tendinitis, bilateral lateral epicondylitis and triangular fibrocartilage complex tear of the left wrist. Dr. Posch indicated that he would not recommend any work restrictions as appellant was not working at the time. In several brief reports dated between July 2001 and December 2004, he provided similar assessments of appellant's condition.

---

<sup>1</sup> At the time she stopped work, appellant was performing limited duties for the employing establishment which did not require her to lift, push or pull more than a pound.

<sup>2</sup> In several letters to the employing establishment, appellant suggested that she had a sleeping disorder due to stress sustained at work. However, she did not file a claim with the Office for a work-related sleep disorder or emotional condition.

In a May 30, 2002 decision, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained an employment-related recurrence of total disability on or after April 1, 2000.

On May 30, 2002 Dr. John E. Nimlos, an attending Board-certified preventive medicine physician, stated that appellant reported pain in her wrist and arms which was "excruciating, constant and persistent." Dr. Nimlos indicated that upon examination appellant exhibited full range of bilateral elbow motion and limited range of bilateral wrist motion. He diagnosed "bilateral wrist tendinitis and left [triangular fibrocartilage complex] tear, work related, with permanent impairment" and "bilateral medial and lateral epicondylitis, also more probably than not work related." Dr. Nimlos provided permanent impairment ratings for appellant's upper extremities based on limited motion and sensory loss of the wrists and elbows.

On June 11, 2002 Dr. Nimlos diagnosed bilateral wrist tendinitis, left triangular fibrocartilage complex tear and bilateral medial and lateral epicondylitis. He indicated that these conditions were related to appellant's work, which included "repeated awkward motions at wrists" and repeated his conclusions regarding the permanent impairment of appellant's upper extremities.

In a June 13, 2003 decision, the Office denied appellant's request for further review of the merits of her claim.

On June 5, 2003 Dr. Nimlos stated that a review of appellant's medical records revealed that she first noted having a sleep disorder and reported stress from her work when she received treatment in July 1997. He indicated that appellant had experienced anxiety and dizziness episodes at work and stated that "these symptoms have remained and provoked problems in both symptomatic complaints and inability to attend her work."

On July 13, 2006 appellant requested reconsideration of her claim arguing that she continued to have work-related disability after March 30, 2000. In an August 15, 2006 decision, the Office affirmed its May 30, 2002 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 of record establishes that she can perform the light-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 show that she cannot perform such light duty. 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 light-duty job requirements.<sup>3</sup>

---

<sup>3</sup> *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

## ANALYSIS

The Office accepted that appellant sustained a right elbow strain and bilateral wrist tendinitis. Appellant claimed that she sustained a recurrence of total disability on April 1, 2000 due to her accepted employment injuries. The Board finds that she did not submit sufficient medical evidence to establish such a recurrence of total disability.

Appellant submitted a July 7, 2000 report in which Dr. Williamson-Kirkland, an attending Board-certified physical medicine and rehabilitation physician, indicated that he could not define whether she had a “specific pathology” but noted that appellant appeared to have mild arthritis around her elbows despite having full range of motion. This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain an opinion that appellant sustained a recurrence of total disability on or after April 1, 2000 due to her accepted employment injuries.<sup>4</sup> Moreover, Dr. Williamson-Kirkland did not provide any indication that appellant’s arthritis was employment related. He suggested that she had some form of emotional reaction to her work or a fear of losing her job which affected her physical condition, but appellant has not filed a claim alleging a work-related emotional condition and the evidence of record does not otherwise establish the existence of such a condition.<sup>5</sup>

In May and June 2002 reports, Dr. Nimlos, an attending Board-certified preventive medicine physician, diagnosed bilateral wrist tendinitis, left triangular fibrocartilage complex tear and bilateral medial and lateral epicondylitis and indicated that these conditions were related to appellant’s repetitive work duties. He also provided permanent impairment ratings for appellant’s upper extremities based on limited motion and sensory loss of the wrists and elbows. Although he indicated that appellant had permanent residuals of her accepted employment injuries, Dr. Nimlos did not provide a clear opinion that these conditions caused total disability commencing April 1, 2000. At the time she stopped work, appellant was performing limited duties at the employing establishment and Dr. Nimlos did not indicate that she could not perform these duties. Moreover, the Office has not accepted that appellant sustained a work-related left triangular fibrocartilage complex tear, bilateral medial epicondylitis or bilateral lateral epicondylitis and Dr. Nimlos provided no explanation why these conditions might be related to her work.<sup>6</sup>

---

<sup>4</sup> See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).

<sup>5</sup> Dr. Williamson-Kirkland did not identify which aspects of work at the employing establishment caused appellant to experience stress and his assessment of her emotional state and ability to work appears to have been based mostly on appellant’s complaints rather than any objective findings on examination or diagnostic testing.

<sup>6</sup> In the later half of 2001, Dr. Posch, an attending Board-certified family practitioner, diagnosed these same conditions, but he did not indicate that they were work related. In June 2003 Dr. Nimlos suggested that appellant had disability due to a sleep disorder or an anxiety-related dizziness condition, but appellant has not filed any claim alleging such work-related conditions.

For these reasons, appellant has not shown that a change in the nature and extent of her injury-related condition caused total disability. She also has not alleged or otherwise shown a change in the nature and extent of her light-duty job requirements.

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained an employment-related recurrence of total disability on or after April 1, 2000.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' August 15, 2006 decision is affirmed.

Issued: July 23, 2007  
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