

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

A.L., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Cleveland, OH, Employer**

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**Docket No. 07-451
Issued: May 18, 2007**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 7, 2006 appellant filed a timely appeal from an October 11, 2006 merit decision of the Office of Workers' Compensation Programs that denied her claim for wage-loss compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merit decision.

ISSUE

The issue is whether appellant met her burden of proof to establish that she was disabled during the period June 10 through August 14, 2006 as a result of her April 20, 2006 employment injury.

FACTUAL HISTORY

On April 20, 2006 appellant, then a 50-year-old mail handler, filed a traumatic injury claim alleging that she sustained right wrist and shoulder pain that day while lifting a sack of mail. She did not initially stop work.

In April 20, 2006 reports, Dr. Patrick Bray, Board-certified in preventative medicine, advised that appellant felt sharp pain in her right hand, radiating up to her shoulder, on that date while pulling sacks out of a hamper. He advised that he treated appellant during the prior year for a right wrist sprain that had resolved. Dr. Bray noted that appellant had carpal tunnel syndrome 15 to 20 years prior that seemed to have resolved after surgery. On examination, he noted some complaints of tenderness and loss of sensation in the right arm but advised that there was no unusual swelling or redness in the wrist and that strength at the right rotator cuff appeared to be normal. Dr. Bray diagnosed a right wrist sprain/strain and a right shoulder strain and released appellant to work with restrictions on lifting more than 10 pounds or using her right arm. In subsequent reports, he renewed appellant's work restrictions.

Appellant began treatment with Dr. Bruce Cohn, a Board-certified orthopedic surgeon. In a May 26, 2006 report, he characterized appellant's condition as work related and noted that she was working a light-duty assignment with restrictions on the use of her right arm. She reported a constant ache in the front of her shoulder and radiating into the upper arm, with some numbness on the side of the upper arm. Dr. Cohn performed a physical examination in which appellant reported some pain in the right wrist and shoulder. He diagnosed right wrist contusion/sprain, right elbow contusion/strain, rule out lateral epicondylitis, right shoulder and upper arm contusion/sprain. Dr. Cohn advised appellant to remain on light duty, left handed work. He also examined x-ray scans of appellant's right shoulder, elbow and wrist and noted no significant abnormality. In a June 23, 2006 report, Dr. Cohn advised that appellant reported that her condition was worsening. He repeated his prior diagnoses and advised that appellant should "continue off work." In an attached June 23, 2006 "work excuse," Dr. Cohn requested that appellant be excused from work from June 22 to 26 2006 due to her April 20, 2006 work injury. On June 30, 2006 he noted that appellant presented in his office after having to "call off work on Wednesday due to pain." On examination, appellant exhibited pain in the right wrist and shoulder. Dr. Cohn repeated his previous diagnoses and also diagnosed a possible right rotator cuff tear and a possible right scaphoid fracture. He recommended that appellant remain off work until July 3, 2006. In a form report prepared the same day, he checked a box indicating that appellant was totally disabled from work from June 28 to July 2, 2006 and added the notation "because of work-related injury." In a July 10, 2006 narrative report, Dr. Cohn indicated that appellant would remain off work until her next visit.

On July 13, 2006 appellant submitted claims for compensation covering the periods June 1 to 5 and 22 to 26, June 28 to July 6 and July 6 to 31, 2006. A representative of the employing establishment indicated that appellant did not return from her leave without pay ending July 31, 2006. She submitted a June 2, 2006 treatment note from Dr. Cohn, indicating that she was off work from June 1 to 5, 2006 and "can return." Appellant also provided July 10, 2006 reports from Dr. Cohn indicating that appellant was "totally off work" from July 6 to 31, 2006. On the July 10, 2006 form report Dr. Cohn checked a box indicating that appellant was totally disabled from July 6 to 31, 2006 and added the notation "work[-]related injury." In a July 10, 2006 narrative report, he stated that appellant presented for follow-up examination of her right shoulder and wrist which he related was a "work[-]related injury." Dr. Cohn stated that appellant missed work the previous Thursday and Friday "because her wrist and shoulder pain was so bad." He advised that appellant would remain off work.

On July 20, 2006 the Office accepted appellant's claim for right wrist sprain and right shoulder and upper arm sprain. On July 24, 2006 it advised appellant that Dr. Bray was her authorized physician and to submit medical evidence to support her claim for wage-loss compensation. In an undated letter, appellant requested to change of physicians from Dr. Bray to Dr. Cohn.

In a July 31, 2006 form report, Dr. Cohn indicated that appellant was totally disabled from July 31 to August 14, 2006. However, in a narrative report prepared the same day, he indicated that appellant could perform limited duty, left handed work. In an August 16, 2006 narrative report, Dr. Cohn indicated that appellant had returned to a limited-duty assignment and recommended that she continue with her restrictions. On August 21, 2006 he opined that appellant's shoulder condition was "directly related to her injury at work," noting that he had diagnosed right shoulder strain.

On August 19, 2006 appellant requested compensation for the period August 1 to 14, 2006.

On September 11, 2006 the Office advised appellant to submit a medical opinion from Dr. Cohn explaining why he found appellant to be disabled when Dr. Bray had indicated that she could work limited duty.

In a September 26, 2006 report, Dr. Cohn characterized appellant's right wrist and shoulder condition as work[-]related injuries and stated: "On June 23, 2006 I examined [appellant] and specified during that visit that she was not to return to work until her next follow[-]up appointment. On June 30, 2006 I stated that [appellant] was to remain off work until July 3, [2006] at which time she would have restrictions which essentially were left handed work." Dr. Cohn explained that his physical examinations of appellant yielded findings of tenderness and pain from the right wrist to shoulder. He stated: "Certainly, we made every attempt to return her to some form of work as manifested by the times we sent her back to light, left handed work only."

By decision dated October 11, 2006, the Office denied appellant's claim for compensation from June 10 to August 14, 2006.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including that any specific condition or disability for which she claims wage-loss compensation is causally related to the employment injury.² Whether a particular injury causes an employee to be disabled for work and the duration

¹ 5 U.S.C. § 8101 *et seq.*

² *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

of that disability are medical issues that must be proven by a preponderance of the reliable, probative and substantial medical evidence.³

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.⁴ Furthermore, it is well established that medical conclusions unsupported by rationale are of diminished probative value.⁵

ANALYSIS

The Board finds that appellant did not meet her burden of proof in establishing that she was disabled from June 10 through August 14, 2006, due to her accepted April 20, 2006 employment injury. She sustained a right wrist sprain and a right shoulder sprain at work on April 20, 2006. Dr. Bray examined her on the date of injury and released her to light-duty work with restrictions. She continued working until she stopped on June 10, 2006.⁶

Shortly before appellant stopped work, she began receiving treatment from Dr. Cohn, who advised on May 26, 2006 that she could continue performing limited duty. On June 23, 2006 Dr. Cohn advised that her condition was worsening and that she stop on June 22 to 26, 2006. However, Dr. Cohn's reports are insufficient to show that appellant's claimed disability was causally related to her April 20, 2006 employment injury. Although Dr. Cohn characterized appellant's disability as "work related," he did not offer a rationalized medical opinion supporting causal relationship between her intermittent disability and her accepted employment injury. Dr. Cohn's reports lack a full, narrative explanation explaining why appellant was unable to continue light duty with her left hand. His June 23 and 30, July 3 and 31 and August 16, 2006 reports noted appellant's complaints but did not address how or why the accepted condition caused disability on specific dates. Instead, many of the reports merely noted that appellant had complained of increasing pain without any explanation from Dr. Cohn regarding how the employment injury caused her symptoms and why she was totally disabled.

In an August 21, 2006 report, he stated that it was his opinion appellant's shoulder condition was "directly related to her injury at work." However, the claim was accepted by the Office for sprain of the upper extremity. Dr. Cohn did not address the issue of disability for work on the dates claimed. The Board has held that conclusory statements of support for causal relationship without supporting rationale are of little probative value.⁷ Dr. Cohn's September 26, 2006 report is similarly conclusory. He again noted that appellant's right wrist and shoulder injuries were work related, but did not provide adequate explanation on the issue of how the

³ *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

⁴ *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, *id.*

⁵ *Jacquelyn L. Oliver*, *supra* note 2 at 232.

⁶ There is no evidence that light-duty work did not remain available.

⁷ *See William C. Thomas*, 45 ECAB 591 (1994).

accepted strains worsened so as to cause disability between June 10 and August 14, 2006. The fact that appellant sustained employment-related injuries is not in dispute. There is no reasoned medical evidence explaining how or why these accepted injuries caused disability during the claimed period. The Board finds that Dr. Cohn's reports are insufficient to discharge appellant's burden of proof in establishing that her intermittent disability for the period June 10 to August 14, 2006.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof in establishing that her claimed disability from June 10 to August 14, 2006 was causally related to her April 20, 2006 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the October 11, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 18, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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