

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

R.R., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Fresno, CA, Employer**

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**Docket No. 07-1416
Issued: November 19, 2007**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 1, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated February 28, 2007 which denied her claim for recurrence of disability. Pursuant to 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 sustained a recurrence of disability on or about April 6, 2006 causally related to her accepted right knee injury.

FACTUAL HISTORY

On May 24, 1999 appellant filed an occupational disease claim alleging that she developed knee pain in the performance of duty starting on June 22, 1998. On July 12, 1999 her claim was accepted for right knee strain. The record indicates that appellant underwent a right knee surgical procedure in 1999 which was authorized by the Office. She returned to work in a light-duty position on July 27, 2000.

Appellant thereafter filed a claim on October 10, 2002 alleging that her left knee was painful as a consequence of her right knee injury. Her left knee claim was accepted for left knee sprain on March 27, 2003.

In response to an inquiry by appellant, in a letter dated June 15, 2006, the Office advised her that her accepted right knee claim remained open for medical benefits but that, if she had sustained any disability as a result of the accepted injury, she should file a claim for recurrence of disability. On June 21, 2006 appellant filed a notice of recurrence alleging that she sustained a recurrence of her right knee injury on April 6, 2006. She stated that she had undergone another right knee surgical procedure on April 6, 2006.

On July 20, 2006 the Office requested additional evidence from appellant. Appellant responded in an August 24, 2006 letter, advising the Office that she had been on light duty since July 1999.

In a July 26, 2006 report, Dr. Richard Blanks, an orthopedic surgeon, stated that appellant was temporarily totally disabled for six weeks following her surgery on April 6, 2006 after which she returned to previous permanent work restrictions. He also stated that appellant had permanent restrictions of her knee.

On October 5, 2006 the Office denied appellant's recurrence claim on the grounds that the medical evidence was insufficient to establish disability causally related to the accepted injury. On November 27, 2006 appellant requested reconsideration.

In an October 9, 2006 report, Dr. P. James Nugent, an orthopedic surgeon, stated that appellant did not have a current disability status and was working without restrictions. He diagnosed cervical spine pain and degenerative disc disease in the cervical spine. In an attached treating physician's report of disability status dated October 9, 2006, Dr. Nugent stated that appellant injured her cervical spine on February 6, 2006 and was released to work on October 9, 2006.

In a January 23, 2007 report, Dr. Blanks noted that appellant came in for a right shoulder injury but that she was disabled due to a knee condition and on work restrictions for the same. He diagnosed osteoarthritis in the shoulder and shoulder tendinitis/bursitis. In the attached report, Dr. Blanks stated that appellant injured her right upper extremity on February 6, 2006 and that she could return to work with restrictions.

In a February 13, 2007 report, Dr. Nugent diagnosed cervical spine pain and degenerative disc disease.

On February 28, 2007 the Office denied modification of its October 5, 2006 decision on the grounds that the medical evidence was insufficient to establish that appellant sustained a recurrence of disability due to her accepted knee conditions.

LEGAL PRECEDENT

When an employee who is disabled from the job he or she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of

record establishes that he or 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 he or 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.¹ The issue of whether an employee has disability from performing a modified position is primarily a medical question and must be resolved by probative medical evidence.²

The Board notes that a recurrence of disability is defined as the 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

ANALYSIS

Appellant was on light duty when she alleged a recurrence of her right knee condition on April 6, 2006. It is her burden to establish that she was totally disabled due to either a change in her condition or a change in the nature of the job requirements. Appellant did not present evidence of a change in her job requirements; therefore, the issue is whether she submitted adequate medical evidence to establish that she sustained a change in her accepted right knee sprain causing her to be totally disabled from performing her light-duty position.

The Board finds that the medical evidence is insufficient to establish that appellant sustained a recurrence of disability due to her accepted knee conditions.

In a July 26, 2006 letter, Dr. Blanks stated that appellant was temporarily totally disabled for six weeks following her April 6, 2006 knee surgery. However, he did not describe the nature of the surgery in any detail and did not submit surgical or hospital records pertaining to the procedure. Dr. Blanks did not explain how the surgery of April 6, 2006 was related to the accepted knee conditions. He failed to address how the accepted conditions caused or contributed to the need for surgery in 2006. Dr. Blanks offered no medical explanation as to the cause of appellant's temporary disability for the six-week period. 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.⁴ Dr. Blanks' January 23, 2007 report merely stated that appellant was disabled due to a knee illness and noted that she was placed on work restrictions. Again he offered no medical explanation as to why appellant became disabled in 2006 due to her accepted conditions. Dr. Blanks also noted appellant's shoulder condition which is not an accepted injury, and is not relevant to the claim at hand. The remaining medical evidence of

¹ *Cecelia M. Corley*, 56 ECAB ____ (Docket No. 05-324, issued August 16, 2005); *Bryant F. Blackmon*, 56 ECAB ____ (Docket No. 04-564, issued September 23, 2005).

² *Cecelia M. Corley*, *supra* note 1.

³ *Id.*

⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

record is not relevant to the issue on appeal as it addresses medical conditions not accepted by the Office as employment related.

The reports from Dr. Nugent do not discuss or mention appellant's right knee condition.

CONCLUSION

The Board finds that appellant has not met her burden to establish that she sustained a recurrence of disability causally related to her accepted right knee condition.

ORDER

IT IS HEREBY ORDERED THAT the February 28, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 19, 2007
Washington, DC

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

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

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