



a right carpal tunnel release on September 8, 2006 and a left trigger thumb release on August 2, 2007. These surgical procedures were authorized by the Office. Appellant worked as a modified mail handler for the employing establishment and she received appropriate compensation from the Office for periods of disability.

In a February 23, 2007 decision, the Office adjusted appellant's compensation based on its determination that her actual wages as a modified mail handler fairly and reasonably represented her wage-earning capacity. Appellant stopped work after her left thumb surgery and returned to light-duty work for the employing establishment on September 6, 2007. She stopped work on May 13, 2008 and filed a claim alleging that she sustained a recurrence of total disability as of that date due to her accepted employment injuries.

In a May 14, 2008 disability slip, Dr. Timothy J. Marqueen, an attending Board-certified orthopedic surgeon, stated that appellant was off work until her next medical appointment. In connection with a May 14, 2008 examination, he stated that appellant complained of pain in her left arm (primarily the forearm) and had some subjective numbness and tingling in her left hand. Visual inspection of the left elbow revealed no soft tissue swelling or bony abnormality and that palpation demonstrated no tenderness over the lateral epicondyle, medial epicondyle or wrist extensor complex. There was some tenderness to palpation over the mobile wad of the left elbow, but the elbow was stable and there was no pain with range of motion. Dr. Marqueen indicated that left arm strength was normal and sensation was intact to light touch. There was an equivocal Tinel's sign over the left mobile wad and negative impingement signs in the shoulders. Examination of the left hand revealed no bony abnormality, no ecchymosis and no edema. The left carpal tunnel incision was healing well and appellant had full range of motion of the left wrist and hand, including the digits. Dr. Marqueen stated that there is no tenderness to palpation at the A1 pulley of the thumb. Appellant was otherwise nontender to palpation in the wrist region as well as the hand and fingers and there was no instability of the wrist or hand. There was no triggering of the fingers, Finkelstein test was negative and there was no snuffbox tenderness. Dr. Marqueen stated that appellant had a full composite fist and there was no angulation or rotation of the digits. He diagnosed left arm pain and questionable recurrent carpal tunnel syndrome.

The findings of June 5, 2008 electromyography and nerve conduction velocity testing of the left arm showed no electrodiagnostic evidence of recurrent carpal tunnel syndrome. The studies showed significant interval improvement in the left median motor and sensory nerve conduction latencies as well as amplitude consistent with carpal tunnel release. Left median motor amplitude was normalized as compared to the nearly absent amplitude prior to the surgery. Left median sensory nerve conduction studies were prolonged but obtainable as compared to the absent responses in the previous study.

On June 27, 2008 the Office requested that appellant submit additional factual and medical evidence in support of her recurrence of disability claim.

In a July 2, 2008 letter, appellant described the modified duties which she had performed since her return to light-duty work in October 2006. She maintained that her current condition was related to the initial carpal tunnel syndrome from which she had never fully recovered.

Appellant submitted notes from Dr. Marqueen dated May 14 to June 27, 2008. Dr. Marqueen diagnosed left arm pain and questionable recurrent left carpal tunnel syndrome. He indicated that appellant chiefly complained of extensive pain in her left hand and wrist. Dr. Marqueen indicated that she had left wrist intersection syndrome “because of the constant repetitive motion of the left wrist which caused a lot of the factors of her carpal tunnel.” He indicated that appellant could return to work after a course of physical therapy. In a June 2, 2008 report, Dr. Marqueen also diagnosed left wrist intersection syndrome.

Appellant also submitted an undated report in which Dr. Marqueen indicated that appellant reported that her job since October 2006 required lifting bundles of magazines, boxes and other objects and pulling them on a conveyor belt. She lifted and dumped mail sacks and dumped mail out of a large mail hamper. Dr. Marqueen stated, “At this time [appellant] is unable to lift or pull anything and the amount will decrease when she returns to work because the repetitive lifting and movement of her hands are worsening her ability to use her hands in just daily activities.”

In an August 1, 2008 decision, the Office denied appellant’s claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained a recurrence of total disability on or after May 13, 2008 due to her accepted employment injuries.

Appellant submitted an August 8, 2008 report in which Dr. Marqueen diagnosed left wrist intersection syndrome. The findings were similar to those contained in his May 14, 2008 report. In a September 16, 2008 decision, the Office awarded appellant a schedule award for a five percent permanent impairment of her left arm. The award ran from September 7 to December 2, 2007.

Appellant requested a telephone hearing with an Office hearing representative. The December 10, 2008 hearing indicated that her claim had also been accepted for the condition of left wrist tenosynovitis.<sup>1</sup> Appellant testified about the modified employment duties she performed after her October 2006 return to work and explained why she believed her condition on and after May 13, 2008 was related to these duties. The Office hearing representative advised appellant of the different requirements for establishing an occupational disease claim and a recurrence of disability claim.

After the hearing, appellant submitted December 19, 2008 and January 28, 2009 reports in which Dr. Marqueen diagnosed left wrist intersection syndrome and left de Quervain’s tenosynovitis. Dr. Marqueen completed certificates dated August 8 and December 19, 2008 and January 28, 2009 advising that appellant could not lift more than five pounds but that she could stay in her current job.

In an April 23, 2009 decision, the Office hearing representative affirmed the August 1, 2008 decision.

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<sup>1</sup> It appears that this condition was accepted under a different claim file.

## 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>2</sup>

## ANALYSIS

The Office accepted in mid 2006 that appellant sustained bilateral carpal tunnel syndrome due to her repetitive duties, including lifting, carrying, pulling and pushing mail trays. It later accepted that she sustained left trigger thumb due to these job duties. Appellant underwent a left carpal tunnel release on May 9, 2006, a right carpal tunnel release on September 8, 2006 and a left trigger thumb release on August 2, 2007. She returned to light-duty work on October 21, 2006 but stopped work on May 13, 2008 alleging that she sustained a recurrence of total disability on that date due to her accepted employment injuries

The Board finds that appellant did not submit sufficient medical evidence to establish that she sustained a recurrence of total disability on or after May 13, 2008 due to her accepted employment injuries.

Appellant did not submit any medical evidence indicating that she sustained total disability on or after May 13, 2008 due her accepted conditions, bilateral carpal tunnel syndrome and left trigger thumb. In a May 14, 2008 disability slip, Dr. Marqueen, an attending Board-certified orthopedic surgeon, stated that appellant was off work until her next medical appointment. However, he did not provide any explanation of the cause of this disability. In fact, Dr. Marqueen's examination findings from May 14, 2008 show limited objective findings and it remains unclear why he recommended disability.

In several reports, dated beginning in June 2008, Dr. Marqueen diagnosed left wrist intersection syndrome. In a June 27, 2008 report, he suggested that this condition was related to repetitive wrist motion appellant engaged in after she returned to light-duty work for the employing establishment.<sup>3</sup> However, Dr. Marqueen did not provide any clear opinion on the cause of this diagnosed condition and whether appellant sustained any new occupational diseases due to her continuing repetitive work duties is not the subject of the present appeal.<sup>4</sup>

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<sup>2</sup> *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

<sup>3</sup> Dr. Marqueen also indicated that appellant could return to work after a course of physical therapy. In an undated report received by the Office in July 2008, he reported appellant's complaints of being unable to lift objects. Dr. Marqueen did not, however, provide a clear opinion that appellant could not engage in lifting at that time.

<sup>4</sup> Beginning in December 2008 Dr. Marqueen also diagnosed left de Quervain's tenosynovitis. It appears that this condition was accepted under a different claim file, but the question of whether appellant has disability due to this condition is not the subject of the current appeal.

The record does not contain a rationalized medical opinion showing that appellant sustained total disability on or after May 13, 2008 due to her accepted bilateral carpal tunnel syndrome and left trigger thumb. Appellant has not shown a change in the nature and extent of her injury-related condition.<sup>5</sup> Therefore, the Office properly denied her recurrence of disability claim.

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a recurrence of total disability on or after May 13, 2008 due to her accepted employment injuries.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' April 23, 2009 decision is affirmed.

Issued: November 16, 2009  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>5</sup> Appellant did not allege a change in the nature and extent of her light-duty job requirements.