

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

C.T., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
North Metro, GA, Employer)

**Docket No. 14-1826
Issued: January 8, 2016**

Appearances:
Jason Sloan, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 19, 2014 appellant, through her representative, filed a timely appeal from a July 22, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 sustained a recurrence of disability as of February 22, 2014.

FACTUAL HISTORY

On July 26, 2006 appellant, a 44-year-old sales/service clerk, injured her back while pulling a pallet of mail from an elevator. She filed a claim for benefits, which OWCP accepted for thoracic sprain, left shoulder, and upper arm sprain, acromioclavicular joint.

¹ 5 U.S.C. § 8101 *et seq.*

Appellant returned to full duty without restrictions on August 2, 2006. On March 29, 2014 she filed a recurrence of disability claim. Appellant alleged that her inability to work as of February 22, 2014 was caused or aggravated by her accepted July 26, 2006 employment injury. On the (Form CA-2a) she indicated that the recurrence happened on November 23, 2013 when she was lifting heavy trays and flat boxes of mail overhead. On May 29, 2014 appellant again filed a recurrence of disability claim similarly alleging that she felt severe pain in her left arm and shoulder, neck and lower back while taking down a pie rack on November 23, 2013. She stated that the pain was in the same area of her body that she previously injured.

On November 23, 2013 Karen Beach, a nurse practitioner, examined appellant and wrote a report at the behest of Dr. Stephen Dawkins, Board-certified in occupational medicine, which stated that appellant was excused from work on that date; appellant was slated to be released to modified duty as of November 25, 2013. The report indicated that she advised that appellant sustained an injury to her left shoulder which occurred when she was lifting heavy mail off a pie rack repetitively and began to experience shoulder pain. Appellant was restricted from lifting, pushing, pulling, and overhead work with her left arm; continuous bending/stooping, standing and walking; and repetitive use of her left arm. The report diagnosed tendinitis, and sprain/strain of the muscle in the left shoulder. Appellant related that she sustained an injury to her left shoulder while pulling heavy trays of mail from a machine and setting them down; she felt immediate pain in her left shoulder and had since experienced difficulty moving her left arm. She stated that this injury was similar to the work injury to her left shoulder she sustained in 2006. On examination it was noted that appellant's left shoulder appeared essentially normal, although she was not able to raise both arms to a vertical position at the sides of her head, place her hands behind her neck in external rotation, and place her hands behind her midback in internal rotation. X-rays of the left shoulder showed no fracture, dislocation, or abnormal calcification.

In a November 23, 2013 work capacity evaluation cosigned by Ms. Beach and Dr. Dawkins, appellant was given restrictions, which essentially reiterated those set forth in the November 23, 2013 report. She was also restricted from continuous lifting exceeding 25 pounds.

In a December 10, 2013 report, received by OWCP on June 4, 2014 Dr. Pran N. Sood, Board-certified in orthopedic surgery, stated that appellant was experiencing increased pain in her left shoulder. He advised that she was seen and evaluated a few weeks prior with her neck pain, back pain, and left shoulder pain. Dr. Sood recommended that appellant undergo a magnetic resonance imaging (MRI) scan and electromyogram (EMG) of the neck and left shoulder. He asserted that ultrasound evaluation showed that she had bursitis and tendinitis in the shoulder, but that the main rotator cuff appeared intact. Dr. Sood advised that he told appellant that she should be able to move it, but that she was exerting poorly overall. He recommended therapy and aggressive movement of the shoulder in order to prevent it from being frozen.

In a January 31, 2014 report, Dr. Sood stated that appellant had complaints of severe low back pain, severe neck pain, right and left upper extremity radiculopathy, difficulty moving the left shoulder, and pain and numbness in the lower extremities. He stated that he administered injections to the left shoulder, but that she still had marked loss of movement in the shoulder. Dr. Sood stated that appellant's MRI scan findings had been consistent with bursitis, tendinitis,

and rotator cuff syndrome with a partial mild small tear. An MRI scan of her neck showed marked straightening of the cervical curve; cervical spondylosis with bulging cervical discs at C4-5 and C5-6. Dr. Sood opined that appellant also had two bulging discs, at the L4-5 and L5-S1 levels, which extended onto the foraminal regions. He noted that she was presently out of work and was unable to ascertain when she could return to work.

In a February 4, 2014 report, Dr. Sood essentially reiterated his previous findings and conclusions.

In a report dated March 11, 2014, received by OWCP on June 6, 2014 Dr. Sood stated that appellant had complaints of low back pain which were getting better. He stated that on examination of her back she showed improved flexion with limited extension and side bending still limited. Dr. Sood stated that appellant was neurologically stable. He advised that she had back pain secondary to lumbar disc disease with spondylosis. Dr. Sood recommended a bilateral transforaminal epidural injection at L4-5 and L5-S1 because appellant's previous injection resulted in some improvement with the first one. He related that she also had complaints regarding the left shoulder with increasing stiffness. Dr. Sood opined that, as appellant's clinical examination was consistent with these complaints, he recommended an ultrasound evaluation and a possible guided injection into the left shoulder.

By letter dated June 6, 2014, OWCP advised appellant that it required additional factual and medical evidence, including a comprehensive medical report, to support her claim that her condition/or disability as of February 22, 2014 was causally related to her accepted thoracic sprain, left shoulder, and upper arm conditions. It noted that she had filed a claim for a new injury which allegedly occurred on November 23, 2013 under case number xxxxxx613, and that she had stopped work pursuant to that claim on February 22, 2014. OWCP indicated that appellant was currently receiving compensation and medical benefits under the new claim, as opposed to sustaining a recurrence of disability under the instant claim under case number xxxxxx178.

OWCP informed appellant that in order to be entitled to additional medical treatment and compensation for wage loss as a result of a recurrence of disability, she needed to provide factual and medical evidence to substantiate that her disability has occurred or increased due to a spontaneous change in the medical condition which resulted from a previous injury or occupational illness without an intervening injury or new exposure to factors causing the original illness; or a withdrawal of a light-duty assignment made specifically to accommodate her condition due to the work-related injury. It stated that if the evidence established that disability was due to a new work-related injury or illness, a new claim would have to be filed, even if the new incident or exposure involved the same part of the body as previously affected. OWCP advised appellant that the evidence it had received was insufficient to establish her claim for recurrence because it did not describe a spontaneous worsening of her previously accepted conditions.

By decision dated July 22, 2014, OWCP denied the claim for a recurrence of disability.

LEGAL PRECEDENT

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury, and who supports that conclusion with sound medical reasoning.² A recurrence of disability is defined as the inability to work caused by a spontaneous change in a medical condition which results from a previous injury or illness without an intervening injury or new exposure in the work environment that caused the illness.³

ANALYSIS

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her claimed recurrence of disability for work as of February 22, 2014 to her July 26, 2006 work injury. For this reason, she has not discharged her burden of proof to establish her claim that she sustained a recurrence of disability as a result of her accepted employment conditions. Appellant has failed to submit evidence to show that she sustained a worsening of her accepted thoracic strain, left shoulder strain, and left upper arm injuries as of February 22, 2014. As she did not submit medical evidence sufficient to establish that she sustained a recurrence of her July 26, 2006 work injury, OWCP properly denied the claim for a recurrence of disability.

In support of her claim appellant submitted reports from Drs. Dawkins and Sood. In his November 23, 2013 report, Dr. Dawkins stated that she sustained an injury to her left shoulder, which occurred when she was repetitively lifting heavy trays of mail. He diagnosed tendinitis, sprain/strain and muscle in the left shoulder and restricted her from lifting, pushing, pulling, and overhead work with her left arm; continuous bending/stooping, standing, and walking; and repetitive use of her left arm. Dr. Dawkins stated that left shoulder x-ray showed no fracture, dislocation, or abnormal calcification. He excused appellant from work on November 23, 2013 and released her to modified duty on November 25, 2013. In a November 23, 2013 work capacity evaluation, Dr. Dawkins restricted her from continuous lifting exceeding 25 pounds. In his December 10, 2013 report, Dr. Sood advised that appellant was experiencing increased pain in her left shoulder and referred her for MRI scans and EMG tests of the neck and left shoulder. He stated that ultrasound tests revealed that she had bursitis and tendinitis in the shoulder, but that the main rotator cuff appeared intact. Dr. Sood prescribed therapy and aggressive movement of the shoulder in order to prevent it from being frozen. In a January 31, 2014 report, he noted complaints of severe low back pain, severe neck pain, right and left upper extremity radiculopathy, difficulty moving the left shoulder, and pain and numbness in the lower extremities. Dr. Sood advised that appellant's left shoulder MRI scan findings had been consistent with bursitis, tendinitis, and rotator cuff syndrome with a partial mild small tear; an MRI scan of her neck showed marked straightening of the cervical curve; cervical spondylosis with bulging cervical discs at C4-5 and C5-6. He stated that appellant had two bulging discs in

² *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

³ *See* 20 C.F.R. § 10.5(x); *Donald T. Pippin*, 54 ECAB 631 (2003).

her lower back at the L4-5 and L5-S1 levels, which extended onto the foraminal regions. Dr. Sood advised that she was presently out of work and could not state with certainty as to when she could return to work. In his March 11, 2014 report, he advised that appellant had complaints of low back pain, but was neurologically stable. Dr. Sood stated that she had back pain secondary to lumbar disc disease with spondylosis. He also advised that appellant also had complaints of left shoulder with increasing stiffness.

The opinions of Dr. Dawkins and Dr. Sood on causal relationship are of limited probative value in that they did not provide adequate medical rationale in support of their conclusions.⁴ They did not describe how appellant's accepted thoracic sprain, left shoulder, and upper arm sprain conditions would have been competent to cause the claimed recurrence of disability as of February 22, 2014. Moreover, Drs. Dawkins and Sood's opinions are of limited probative value for the further reason that they are generalized in nature and equivocal. As noted, appellant has the burden of proof to submit rationalized medical evidence establishing the relationship of the claimed recurrence to the original injury. The weight of the medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy, and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested, and the medical rationale expressed in support of stated conclusions.⁵ Appellant has not submitted a physician's reasoned opinion in which the physician explains the reasons why appellant's current condition as of February 22, 2014 was causally related to the July 26, 2006 work injury. For these reasons, the medical evidence is insufficient to establish a recurrence of a medical condition causally related to the accepted thoracic strain, left shoulder strain, and left upper arm injuries. The Board will affirm OWCP's July 22, 2004 decision.

CONCLUSION

The Board finds that appellant has not met her burden to establish that she was entitled to compensation for a recurrence of disability as of February 22, 2014 causally related to her accepted thoracic strain, left shoulder strain and left upper arm conditions.

⁴ *William C. Thomas*, 45 ECAB 591 (1994).

⁵ *See Ann C. Leanza*, 48 ECAB 115 (1996).

ORDER

IT IS HEREBY ORDERED THAT the July 22, 2014 decision of the Office of Workers' Compensation Programs is affirmed.⁶

Issued: January 8, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

⁶ James A. Haynes, Alternate Judge participated in the original decision but was no longer a member of the Board effective November 16, 2015.