United States Department of Labor
Employees' Compensation Appeals Board

T.T., Appellant	)	
and	)	**Docket No. 26-0497**
	)	**Issued: September 22, 2026**
U.S. POSTAL SERVICE, PORTLAND PROCESSING AND DISTRIBUTION CENTER, Portland, OR, Employer	)	

Appearances:
Aaron Aumiller, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 6, 2026 appellant, through counsel, filed a timely appeal from an April 1, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP).[2] Pursuant to the

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] The case record also contains December 15, 2025 and March 2, 2026 merit decisions issued within 180 days of the filing of the present appeal. As counsel did not appeal from those decisions, the Board will not review them in this appeal. *See* 20 C.F.R. § 501.3; *see also T.S.,* Docket No. 26-0416 (issued July 14, 2026); *T.S.,* Docket No. 23-1127 (issued December 27, 2023); *T.L.,* Docket No. 22-0881 (issued December 14, 2022); *D.E.,* Docket No. 21-0531 (issued June 16, 2021).

Federal Employees' Compensation Act[3] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[4]

ISSUE

The issue is whether appellant has met his burden of proof to establish a recurrence of disability commencing May 21, 2024, causally related to his accepted February 29, 2024 employment injury.

FACTUAL HISTORY

On March 2, 2024 appellant, then a 39-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 29, 2024 he injured the lower part of his right hand and sustained lateral epicondylitis of the right humerus when he turned the steering wheel of his delivery vehicle as he made a right turn while in the performance of duty. He stopped work on February 29, 2024.

OWCP received a series of reports dated March 1 through May 17, 2024 wherein Dr. Triet Anh Nguyen, an osteopath Board-certified in family practice, diagnosed lateral epicondylitis of the right humerus and held appellant off work. In a May 17, 2024 attending physician's report (Form CA-20), Dr. Nguyen returned appellant to limited-duty work, with lifting, pushing, and pulling with the right upper extremity limited to five pounds.

By decision dated May 20, 2024, OWCP accepted the claim for lateral epicondylitis of the right elbow.[5]

In two August 5, 2024 reports of work status (Form CA-3), the employing establishment noted that appellant initially stopped work on February 29, 2024, returned to full-time modified duty with restrictions on April 29, 2024, again stopped work on May 21, 2024, and had not returned.

OWCP subsequently received a May 17, 2024 report wherein Dr. Nguyen recounted that appellant was tolerating light-duty work. He returned appellant to light duty, with lifting, pushing, and pulling with the right upper extremity limited to five pounds for four weeks.

[3] 5 U.S.C. § 8101 *et seq*.

[4] The Board notes that following the April 1, 2026 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

[5] OWCP subsequently received March 1 and 15, 2024 chart notes by Dr. Nguyen, and an April 1, 2024 report wherein Dr. Nguyen held appellant off work for two weeks following an injection to the right elbow.

In a May 23, 2024 report, Thach Hoang, a certified physician assistant, recounted that appellant had been doing "much better until pain aggravated on Monday" May 20, 2024, with no known trigger, and had been off work commencing Tuesday, May 21, 2024.

In reports dated May 29 through July 10, 2024, Dr. Nguyen recounted that light duty had reaggravated appellant's pain symptoms and that appellant did "not think he could work right now." On examination, he found tenderness to palpation over the right lateral epicondyle, and pain with active right wrist extension against resistance. Dr. Nguyen diagnosed lateral epicondylitis of the right humerus, unresponsive to physical therapy and an injection. He held appellant off work.

On August 2, 2024, appellant filed a claim for compensation (Form CA-7) for disability from work for the period May 21 through July 31, 2024.[6]

In a development letter dated August 15, 2024, OWCP informed appellant of the deficiencies in his disability claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

OWCP subsequently received a July 31, 2024 report wherein Dr. Nguyen reiterated his prior diagnoses and held appellant off work for four weeks.

In an August 7, 2024 report, Dr. Marc R. Davidson, a Board-certified orthopedic surgeon, provided a history of injury and treatment. He recounted appellant's complaints of pain at the lateral aspect of the distal right humerus at the epicondyle, and grip weakness of the right hand. Dr. Davidson obtained x-rays of the right elbow which demonstrated a small ossicle of the inferior medial epicondyle. He diagnosed right elbow pain, lateral epicondylitis of the right humerus, and somatic dysfunction of upper limb, right elbow. Dr. Davidson held appellant off work.

An August 16, 2024 magnetic resonance imaging (MRI) scan of the right elbow demonstrated an impression of a mild partial tear or tendinitis involving the proximal attachment of the common extensor tendon upon the lateral epicondyle.

In an August 19, 2024 report, Dr. Davidson opined that appellant's pain symptoms seemed above what would be expected based on objective findings and had not allowed him to work. Appellant had consistent tenderness over the lateral distal humerus consistent with a diagnosis of lateral epicondylitis. The MRI scan did not show "any overt structural problem that would require any invasive intervention." Dr. Davidson recommended a gradual return to work and continued conservative measures.

In reports dated September 2, 2024, Dr. Nguyen returned appellant to light duty for four hours a day, with lifting, carrying, pushing, and pulling with the right upper extremity limited to two pounds through October 3, 2024.

[6] Appellant filed additional CA-7 forms for disability from work for the periods August 2 through 31, September 3 through October 25, and October 29 through November 22, 2024. He subsequently filed CA-7 forms for the periods September 16 through October 25, and October 29 through November 22, 2024.

Appellant returned to limited-duty work for four hours a day effective September 3, 2024.

In a September 9, 2024 report, Dr. Nguyen reduced appellant's work hours from four to two hours a day, as appellant was unable to tolerate working four hours a day.

By decision dated September 24, 2024, OWCP denied appellant's claim for disability from work commencing May 21, 2024, finding that the medical evidence of record was insufficient to establish disability from work during the claimed period causally related to his accepted February 29, 2024 employment injury.

In an October 1, 2024 report, Dr. Nguyen maintained appellant on light duty for two hours a day, with pushing, pulling, and carrying limited to two pounds.

On October 16, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP subsequently received reports and work slips dated May 28 through November 1, 2024 wherein Dr. Nugyen held appellant off work for the period May 28 through September 2 and on September 6 and 7, 2024. Commencing September 2, 2024, he returned appellant to light-duty work for two hours a day with lifting, carrying, pulling, and pushing with the right upper extremity limited to two pounds.

In a November 22, 2024 chart note and work capacity evaluation (Form OWCP-5c) of even date, Dr. Paul M. Puziss, a Board-certified orthopedic surgeon, recounted appellant's history of injury and medical treatment. On examination of the right upper extremity, he found a positive Tinel's sign, and diminished grip strength. Dr. Puziss diagnosed right forearm strain causing moderate right radial tunnel syndrome. He opined that the "radial nerve in the radial tunnel area, dorsal forearm, and supinator arch has been strained. This is likely swollen and is being pinched to some degree in the supinator arch and is causing pain locally." Dr. Puziss characterized appellant's condition as "partially and significantly disabling." He referred him for a steroid injection of the right radial tunnel. Dr. Puziss returned appellant to full-time sedentary work, with 30 minutes maximum work with the right wrist and elbow, pulling limited to 2 hours, and lifting limited to two pounds for no more than 15 minutes.

OWCP paid appellant wage-loss compensation on the supplemental rolls for the period September 3 through November 22, 2024.

In a January 2, 2025 report, Dr. Puziss maintained appellant on light duty with no repetitive grasping or wrist usage, and no lifting over two pounds.

A hearing was held on January 15, 2025. During the hearing, counsel asserted that OWCP should adjudicate appellant's May 21, 2024 work stoppage as a recurrence of disability within 90 days of an initial return to work.

On January 17, 2025, appellant underwent a right forearm radial nerve ultrasound-guided block at the Arcade of Frohse, performed by Dr. David Westerdahl, a Board-certified family practitioner.

In a January 30, 2025 report, Dr. Puziss maintained appellant on full-time light duty with no repetitive grasping or wrist usage, and no lifting over two pounds.

By decision dated March 17, 2025, OWCP's hearing representative affirmed OWCP's September 24, 2024 decision. The hearing representative acknowledged counsel's assertion that appellant's May 21, 2024 work stoppage should be processed as a recurrence of disability within 90 days of return to duty, but indicated there was insufficient medical evidence "to substantiate increased disability."

OWCP subsequently received additional reports dated March 14 through July 28, 2025 wherein Dr. Puziss opined that the February 29, 2024 employment incident caused right radial tunnel syndrome due to forearm swelling, and that the accepted right lateral epicondylitis had resolved. He maintained appellant on full-time, light-duty work with a 10-pound activity limitation. Dr. Puziss indicated that appellant required a second injection as his condition had worsened.

On June 30, 2025, OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions to Dr. James Schwartz, a Board-certified orthopedic surgeon, for a second opinion regarding the nature and extent of the accepted employment injury, and whether OWCP should expand its acceptance of the claim to include right radial tunnel syndrome.

In a July 19, 2025 report, Dr. Schwartz reviewed the medical record and SOAF. On examination of the right upper extremity, he observed well-localized tenderness three "inches distal to the lateral condyle underneath the common extensor origin, extensor mass." Dr. Schwartz opined that appellant sustained right radial tunnel syndrome.

On August 18, 2025, OWCP requested that Dr. Schwartz submit a supplemental report with medical rationale explaining whether the diagnosis of radial tunnel syndrome was caused or aggravated by the accepted February 29, 2024 employment injury, and whether appellant continued to have residuals of the accepted employment injury.

In a September 1, 2025 addendum report, Dr. Schwartz opined that radial tunnel syndrome had "scant findings other than pain." He explained that appellant exhibited the diagnostic finding of pain with forced supination and also had pinch strength weakness on the right. Dr. Schwartz also indicated that the accepted employment injury appeared "consistent with an injury that would cause the syndrome."

OWCP subsequently received a January 13, 2025 chart note and visit summary of even date wherein Dr. Westerdahl diagnosed right radial tunnel syndrome, and an August 14, 2025 report and work slip of even date wherein he noted his administration of an ultrasound-guided diagnostic radial tunnel injection. Dr. Westerdahl held appellant off work following the injection and returned him to work on August 18, 2025.

On October 1, 2025, OWCP expanded the acceptance of the claim to include right radial tunnel syndrome.

In reports dated November 3, 2025 through February 6, 2026, Dr. Puziss referred appellant for a right radial tunnel release. He maintained appellant on light duty with restrictions.

In a December 19, 2025 report, Dr. Conrad G. Hamilton, a Board-certified general surgeon specializing in surgery of the hand, provided a history of injury and treatment. He ordered electrodiagnostic studies to evaluate proximal radial tunnel symptoms and map the anatomy prior to a planned surgical release.

On March 16, 2026 appellant, through counsel, requested reconsideration of OWCP's March 17, 2025 decision.

In a March 19, 2026 report, Dr. Puziss returned appellant to full-time light duty and limited lifting with the right upper extremity to five pounds.

By decision dated April 1, 2026, OWCP denied modification of the March 17, 2025 decision, finding that the medical evidence of record was insufficient to establish a recurrence of disability commencing May 21, 2024 causally related to the accepted employment injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the evidence, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[7] For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.[8] Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.[9]

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition that had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness. The term also means an inability to work when a light-duty assignment made specifically to accommodate an employee's physical limitations due to the work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force), or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.[10] If the claim for recurrence of disability for work is based on modification of the claimant's duties or physical requirements of the job, the claimant should be asked to describe such changes. If the

[7] *See C.B.*, Docket No. 20-0629 (issued May 26, 2021); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019); *D.W.*, Docket No. 18-0644 (issued November 15, 2018); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[8] *Id.*

[9] 20 C.F.R. § 10.5(f); *B.O., supra* note 7; *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

[10] 20 C.F.R. § 10.5(x); *see D.T.*, Docket No. 19-1064 (issued February 20, 2020).

evidence establishes that the limited-duty position has changed such that it no longer accommodates the claimant's work restrictions, OWCP should accept the recurrence.[11]

OWCP's procedures require that, in cases where recurrent disability for work is claimed within 90 days or less from the first return to duty, the claimant is not required to produce the same evidence as a recurrence claimed long after apparent recovery and return to work.[12] Thus, in cases where a recurrence is claimed within 90 days of the first return to duty, the focus is on disability rather than causal relationship of the accepted condition(s) to the work injury.[13]

The Board has held that, if recurrent disability from work is claimed within 90 days or less from the first return to duty, the attending physician should describe the duties which the employee cannot perform and demonstrate objective medical findings that form the basis for the renewed disability from work.[14]

ANALYSIS

The Board finds that this case is not in posture for decision.

OWCP initially accepted appellant's March 2, 2024 traumatic injury claim for lateral epicondylitis of the right elbow. Appellant stopped work on February 29, 2024 and returned to a full-time limited-duty assignment on April 29, 2024. He worked full-time limited duty until May 21, 2024, when he again stopped work. Beginning August 2, 2024, appellant filed Form CA-7 claims for disability from work for the period May 21 through July 31, 2024 and continuing.

As noted above, OWCP's procedures require that in cases where recurrent disability from work is claimed within 90 days or less from the first return to duty, the claimant is not required to produce the same evidence as for a recurrence claimed long after apparent recovery and return to work. Thus, in cases where a recurrence is claimed within 90 days or less from the return to work, the focus is on disability rather than causal relationship.[15]

As appellant claimed a recurrence of disability within 90 days of his first return to duty, OWCP should have developed and adjudicated the claim under the proper recurrence standard, emphasizing disability rather than causal relationship.[16] The Board thus finds that this case must

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.6.a(3) (version 1.0, issued March 16, 2026); *J.T.*, Docket No. 15-1133 (issued December 21, 2015).

[12] *Id.* at Chapter 2.1500.5 (March 16, 2026); *see also L.L.*, Docket No. 20-0956 (issued October 19, 2021); *R.E.*, Docket No. 20-0421 (issued May 17, 2021); *R.W.*, Docket No. 17-0720 (issued May 21, 2018).

[13] *B.J.*, Docket No. 24-0514 (issued July 7, 2025); *R.E., id.*; *K.R.*, Docket No. 19-0413 (issued August 7, 2019).

[14] *M.H.*, Docket No. 19-1552 (issued February 2, 2021); *A.B.*, Docket No. 18-0978 (issued September 6, 2019); *J.F.*, 58 ECAB 124 (2006).

[15] *Supra* notes 12 and 13.

[16] *See B.J.*, *supra* note 13; *see also L.M.*, Docket No. 25-0055 (issued December 6, 2024).

be remanded for further development applying the appropriate standard.[17] Following any such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the April 1, 2026 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 22, 2026
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

[17] *Id.*