

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BREE A. COBB and U.S. POSTAL SERVICE,
GENERAL POST OFFICE, Kansas City, MO

*Docket No. 02-32; Submitted on the Record;
Issued April 18, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on August 21, 1999 causally related to her accepted September 30, 1998 employment injury.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that she sustained a recurrence of disability on August 21, 1999 causally related to her accepted September 30, 1998 employment injury.

On October 1, 1998 appellant, then a 21-year-old part-time flexible mailhandler, filed a traumatic injury claim alleging that on September 30, 1998 she experienced numbness, burning and sharp pain in her elbows and lower arms. She stated that when she took mail off a skid and turned to take it to a hamper, her shoestring got caught on the corner of the skid. Appellant further stated that this caused her to twist and fall forward on her elbows. She stopped work on October 1, 1998. Appellant returned to her regular work duties on November 17, 1998.

By letter dated December 15, 1998, the Office of Workers' Compensation Programs accepted appellant's claim for bilateral radial neck fracture.

During the period January 19 through March 1, 1999 appellant was limited to lifting 20 pounds. Appellant's treating physician, Dr. Gerald McNamara, a Board-certified orthopedic surgeon, released her to return to regular duty on March 2, 1999. Subsequently, appellant was placed on restrictions until April 23, 1999 when Dr. McNamara released her to regular duty.

On September 3, 1999 appellant filed a claim alleging that she sustained a recurrence of disability on August 21, 1999. She stopped work on August 30, 1999.

In a November 16, 1999 letter, the Office advised appellant to submit factual and medical evidence supportive of her recurrence claim. In response, she submitted factual and medical evidence.

By decision dated April 17, 2000, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability on August 21, 1999 causally related to her September 30, 1998 employment injury.¹ In a December 26, 2000 letter, appellant requested reconsideration of the Office's decision.

By decision dated February 27, 2001, the Office denied appellant's request for modification based on a merit review of the claim. She requested reconsideration of the Office's decision by letter dated May 17, 2001.

In a July 9, 2001 decision, the Office again denied appellant's request for modification based on a merit review of the claim.

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

The record contains medical evidence that addressed the issue whether appellant's current arm condition and disability were caused by her September 30, 1998 employment injury. An October 25, 1999 attending physician's report of Dr. Anne S. Rosenthal, a Board-certified orthopedic surgeon, described the September 30, 1998 employment incident and provided a diagnosis of status post nondisplaced bilateral radial fracture. Dr. Rosenthal indicated that appellant's diagnosis was caused or aggravated by the employment incident by placing a checkmark in the box marked "yes." She explained that appellant stated the accident occurred at work and that the period of disability began on August 30, 1999. Similarly, in an April 28, 1999 attending physician's report, Dr. McNamara provided a description of appellant's September 30, 1998 employment injury, a diagnosis of bilateral radial head fractures and that appellant's condition was caused or aggravated by a fall at work by placing a checkmark in the box marked "yes." The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history is of diminished probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.³ Dr. Rosenthal merely explained her opinion regarding causal relation by noting appellant's reason for her injury. She did not provide any medical rationale to support her opinion. Dr. McNamara failed to provide any medical rationale explaining how or why appellant's disability was caused by the accepted employment injury. Thus, their reports are insufficient to establish appellant's burden.

¹ On October 25, 2000 appellant filed a claim for a schedule award. In an April 9, 2001 decision, the Office granted appellant a schedule award for a three percent permanent impairment of each arm totaling six percent.

² *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

³ *Lucrecia M. Nielson*, 42 ECAB 583, 594 (1991).

Dr. Rosenthal's December 13, 1999 report provided a history of appellant's accepted employment injury and medical treatment and a review of medical records. She indicated her findings on physical and objective examination. Dr. Rosenthal diagnosed bilateral arm pain and status-post-bilateral radial neck fracture, which had healed anatomically. She stated that she was unable to explain why appellant's small fingers were locking up and her other symptoms. Dr. Rosenthal recommended that appellant undergo a functional capacity evaluation to determine the best job for appellant. In a November 2, 1999 report, Dr. Jerry A. Hall indicated a history of appellant's September 30, 1998 employment injury, medical treatment and social background. Dr. Hall also indicated his findings on physical and objective examination. He stated that appellant's symptoms were difficult to categorize. Dr. Hall also stated that he did not see any signs or symptoms suggestive of sympathetically maintained pain, although this would be a "reasonable possibility" given the type of injury appellant experienced. He further stated that he doubted that this was related to cervical radiculopathy given appellant's normal electromyogram. Dr. Hall concluded that this "may" instead simply represent a chronic arthralgia on the basis of prior trauma. The Board has held that medical opinions, which are speculative, are of limited probative value.⁴ Inasmuch as Dr. Rosenthal's and Dr. Hall's opinions are speculative as to the cause of appellant's condition, their reports are of limited probative value.

A September 24, 1999 disability certificate of a physician from Kaiser Permanente, whose signature is illegible revealed that appellant supposedly broke both elbows at work and that she should stay off from work until September 27, 1999. This disability certificate is insufficient to establish appellant's burden because it failed to indicate a diagnosis and to discuss how or why the diagnosed condition and appellant's disability were caused by the September 30, 1998 employment-related injury.⁵

A May 1, 2001 report of Dr. Craig S. Heligman, a specialist in occupational medicine, noted that he examined appellant on December 5, 2000. He stated that he obtained a medical history from appellant, performed a physical examination and reviewed her medical records. Dr. Heligman further stated that appellant suffered bilateral radial head fractures that caused her to be away from the workplace for several months. He also stated that appellant's fractures had healed before he examined her, but opined that she failed to receive adequate physical rehabilitation of her arms before returning to the long hours and heavy nature of the work required at the employing establishment. Dr. Heligman further noted that this led to recurrent and persistent bilateral arm pain and palpable muscle spasms (lumps in appellant's arms). He stated that he found no physical objective evidence to support appellant's ongoing complaints of pain. Dr. Heligman opined that appellant's current complaints of arm pain were the result of a chain of events that started with her September 30, 1998 employment injury. He stated that he was qualified to render this opinion based on his professional qualifications and experience. Dr. Heligman's report is insufficient to establish appellant's burden inasmuch as he failed to provide any medical rationale explaining how or why appellant was disabled due to pain causally related to her September 30, 1998 employment injury.

⁴ See *Jennifer Beville*, 33 ECAB 1970 (1982); *Leonard J. O'Keefe*, 14 ECAB 42 (1962).

⁵ *Daniel Deparini*, 44 ECAB 657, 659 (1993).

Because appellant has failed to submit any rationalized medical evidence establishing that she sustained a recurrence of disability on August 21, 1999 causally related to her accepted September 30, 1998 employment injury, the Board finds that appellant has not met her burden of proof.

The July 9 and February 27, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
April 18, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member