U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHARON E. PORTER and U.S. POSTAL SERVICE,
POST OFFICE, Corpus Christi, TX

Docket No. 98-291; Submitted on the Record;
Issued August 23, 1999

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of total disability on or after July 11, 1996 due to her April 21, 1992 employment injury.

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 July 11, 1996 due to her April 21, 1992 employment injury.

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.[1]

In the present case, the Office of Workers' Compensation Programs accepted that on April 21, 1992 appellant sustained a strain of the right side of her neck and contusions of her left arm and right hip and thigh. Appellant stopped work on April 22, 1992 and later returned to work in a light-duty position. Appellant alleged that she sustained a recurrence of disability on July 8, 1996 due to her April 21, 1992 employment injury. By decision dated November 18, 1996, 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 disability on or after July 11, 1996 due to her April 21, 1992 employment injury.

[1] *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

Appellant did not submit sufficient medical evidence to establish that she sustained a recurrence of disability on or after July 11, 1996 due to her April 21, 1992 employment injury. Appellant submitted a July 11, 1996 form report in which Dr. Gilbert R. Meadows, an attending Board-certified orthopedic surgeon, listed the date of injury as April 21, 1992; noted that the diagnosis of cervical herniated nucleus pulposus (HNP) and neck strain was due to this injury; and indicated that appellant was "totally off work now."[2] This report, however, is of limited probative value on the relevant issue of the present case, in that it does not contain adequate medical rationale in support of its conclusions on causal relationship.[3] Dr. Meadows did not describe the April 21, 1992 injury or explain the medical process by which such an injury, *i.e.*, a soft-tissue injury of appellant's neck, could have worsened to the point that appellant could no longer work.

It should be noted that the Office has not accepted that appellant sustained a cervical HNP as a result of the April 21, 1992 employment incident and Dr. Meadows has not otherwise provided a rationalized opinion supporting such a finding. Dr. Meadows did not explain why appellant's problems were not solely due to some nonwork-related condition such as cervical degenerative disc disease. In a report dated September 19, 1996, Dr. Meadows discussed appellant's neck condition; although he listed the date of injury as April 21, 1992, he did not provide an opinion that appellant sustained total disability on or after July 11, 1996 due to her April 21, 1992 employment injury. This report, therefore, is of limited probative value on the relevant issue of the present case in that it does not contain an opinion on causal relationship.[4]

For these reasons, appellant did not meet her burden of proof to establish that she sustained a recurrence of total disability on or after July 11, 1996 due to her April 21, 1992 employment injury.

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[2] Dr. Meadows also provided light-duty work restrictions on the form. He completed a similar form on September 19, 1996.

[3] *See Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

[4] *See Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that 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). Appellant submitted additional evidence after the Office's November 18, 1996 decision, but the Board cannot consider such evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c). Moreover, appellant did not show that the duties of her light-duty job had changed such that she was unable to perform them.

The decision of the Office of Workers' Compensation Programs dated November 18, 1996 is affirmed.

Dated, Washington, D.C.
August 23, 1999

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member