

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JANICE MATTHEWS and U.S. POSTAL SERVICE,  
POST OFFICE, Chattanooga, TN

*Docket No. 98-1070; Submitted on the Record;  
Issued February 2, 2000*

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DECISION and ORDER

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

The issue is whether appellant has established that she sustained a recurrence of disability on or after May 8, 1997 causally related to her employment injury.

On November 2, 1995 appellant then a 49-year-old postal clerk, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that she injured her hand, fingers and wrist as a result of "repetitive keying" in the performance of duty. Appellant first noticed the injury on October 21, 1995. She lost no time from work.

In an October 31, 1995 duty status report, Form CA-17, Dr. Daniel V. Johnson, a Board-certified orthopedist, limited appellant's keyboard use to only two hours per day for two weeks. In a report also dated October 31, 1995, Dr. Johnson diagnosed "extensor tendinitis" and found that its etiology was "probably [the] repetitious motion related to her work at the [employing establishment]."

On November 1, 1995 the employing establishment offered appellant a limited-duty job which she accepted. On the form, her supervisor noted "work regular assigned duties within her medical restrictions."

On December 18, 1995 the Office of Workers' Compensation Programs accepted appellant's claim for left shoulder tendinitis. The Office later changed its acceptance to left wrist and arm tendinitis.

On July 10, 1997 appellant filed a notice of recurrence of injury, Form CA-2a. On May 8, 1997 at 3:00 a.m. appellant alleged that she sustained a recurrence of injury. She did not stop work and did not seek medical care until July 10, 1997. In a letter accompanying the CA-2a form, appellant stated that following the original injury she was on limited duty for two weeks.<sup>1</sup> She wore a wrist support until February 1996. In 1996, however, she was required to key mail

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<sup>1</sup> The evidence generally indicates that she performed regular duties thereafter.

for 2 ½ to 3 hours per day at 60 letters per minute. As a result of this keying, she developed pain in her fingers, wrist and arm. The employing establishment controverted the claim.

Dr. Johnson examined appellant on July 10, 1997. He diagnosed left dorsal, wrist, elbow tendinitis and recommended that appellant avoid the keyboard as much as possible for six weeks. In a Form CA-17 duty status report also dated July 10, 1997, Dr. Johnson diagnosed wrist tendinitis, opined that her injury history was consistent with that provided by the employing establishment, and advised her to return to work but concluded that she was unable to perform her regular work. In a limited-duty job offer dated July 11, 1997, the employing establishment listed “manual flats and letters, mailing division FSM and LSM within restrictions set forth.” Appellant accepted the limited-duty job offer.

On August 18, 1997 the Office requested additional medical evidence regarding the recurrence of injury from appellant. In response, appellant provided notes from Dr. Johnson dated July 10, 1997, in which he described appellant’s pain in the lateral aspect of her elbow, discomfort of her hand and weakness. He diagnosed extensor tendinitis, lateral epicondylitis.

By decision dated September 13, 1997, the Office denied appellant’s claim for a recurrence of disability. The Office determined that appellant failed to submit sufficient medical evidence to establish that the claimed recurrence was causally related to the October 21, 1995 injury.

Appellant submitted medical reports from Dr. Johnson, including both new reports and ones which had been previously submitted. On September 23, 1997 the Office received an August 21, 1997 CA-17 duty status report form from Dr. Johnson, who advised appellant to return to her regular work duties. Appellant also provided a report from Dr. Johnson dated August 21, 1997, which was received by the Office on September 26, 1997. Dr. Johnson noted appellant’s statement that she did a lot of keyboard work and described left wrist and hand pain.

On November 3, 1997 appellant requested reconsideration. In support, she provided an October 28, 1997 report from Dr. Johnson. In that report, Dr. Johnson diagnosed right lateral extensor origin tendinitis subsequent to her working on a keyboard at work. “She had similar symptoms, findings and diagnosis in 1995 ... [i]t is impossible to say that this is a continuation of the initial injury; however, it is undoubtedly an exacerbation of her symptoms directly related to her work.”

By merit decision dated December 9, 1997, the Office denied modification of its prior decision. The Office found that Dr. Johnson’s reports did not establish a causal relationship between her current diagnosed conditions. Moreover, the Office found that Dr. Johnson’s report was speculative and indicated that the cause of recurrence was exposure to additional work factors.<sup>2</sup>

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<sup>2</sup> The Office suggested that appellant might consider filing a claim for a new injury. While there is some indication that appellant has filed a new claim, any such new claim is not before the Board on the present appeal.

The Board finds that appellant has not established that she sustained a recurrence of disability on or after May 8, 1997 causally related to an October 21, 1995 employment injury.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.<sup>3</sup> This burden of proof includes the necessity of 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 supports that conclusion with sound medical reasoning. An award of compensation may not be made on the basis of surmise, conjecture or speculation, or on an appellant's unsupported belief of causal relation.<sup>4</sup>

In this case, appellant has provided several reports from Dr. Johnson. While Dr. Johnson diagnosed tendinitis of the wrist and arm and opined that appellant had similar symptoms in 1995, he failed to provide sufficient medical rationale to establish a causal relationship in this case. The Board has held that the mere fact that symptoms which later appear and mirror those following an employment injury does not establish that the employment injury caused the symptoms.<sup>5</sup> While Dr. Johnson, in his October 28, 1997 report, noted that appellant's condition was "undoubtedly" an exacerbation of symptoms "directly related" to her work, he prefaced this conclusion by stating that it was "impossible to say this is a continuation of the initial injury." This equivocation diminishes the probative value of his opinion.<sup>6</sup> He also provided no medical rationale explaining the medical basis by which appellant's continuing condition would be caused or aggravated by the original 1995 employment injury.<sup>7</sup> Other reports from Dr. Johnson do not provide a specific opinion addressing whether appellant's condition beginning May 8, 1997 is causally related to her 1995 employment injury. Additionally, the record contains no documentary medical evidence of bridging symptoms during the more than two-year period from the end of March 1995 when appellant last received medical treatment until July 10, 1997 when she sought treatment again.<sup>8</sup>

For these reasons, appellant has failed to meet her burden of proof.

The decisions of the Office of Workers' Compensation Programs dated December 9 and September 13, 1997 are hereby affirmed.

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<sup>3</sup> *John E. Blount*, 30 ECAB 1374, 1379 (1979).

<sup>4</sup> *Jose Hernandez*, 47 ECAB 288, 294 (1996); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982)

<sup>5</sup> *Leslie S. Pope*, 37 ECAB 798, 802 (1986); *Dominic M. DeScala*, 37 ECAB 369, 373 (1986).

<sup>6</sup> See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical reports which are speculative or equivocal in character have little probative value).

<sup>7</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>8</sup> *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Leslie S. Pope*, *supra* note 5.

Dated, Washington, D.C.  
February 2, 2000

George E. Rivers  
Member

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member