

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

S.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Philadelphia, PA, Employer**

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**Docket No. 07-1706
Issued: January 3, 2008**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 12, 2007 appellant filed a timely appeal of a February 22, 2007 decision of the Office of Workers' Compensation Programs denying her claim for a recurrence of disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2) the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant established a recurrence of disability on or about November 14, 2006 causally related to her accepted work injury.

FACTUAL HISTORY

On December 1, 1993 appellant, then a 34-year-old clerk, filed an occupational disease claim alleging that she sustained an injury to her hand and right arm as a result of repetitive keying at work. She listed her date of awareness as October 29, 1993. By letter dated January 31, 1994, the Office accepted appellant's claim for tenosynovitis of the right thumb. Appellant has been working full time with restrictions since August 21, 1994.

On December 12, 2006 appellant filed a claim for recurrence of her employment injury on November 14, 2006. She noted that, after her injury she returned to limited-duty work. Appellant noted that now she could not use her hands at full capacity. She noted pain in her hands as well as swelling and weakness.

In a letter dated January 16, 2007, appellant indicated that the duties on her return to work involved light-duty assignments with no lifting over 10 to 15 pounds and intermittent keying. She opined that her current condition is due to the original injury as it is in the same area of her body -- her hands and appellant noted that she is still doing repetitive motion and that has aggravated her original injury.

In support of her recurrence claim, appellant submitted an impairment rating by Dr. George L. Rodriguez dated November 14, 2006. In a November 20, 2006 report, Dr. Rodriguez noted that, as a result of appellant's work injury, she suffered from tendinitis in the flexors of both hands (all digits), carpal tunnel syndrome in both wrists, activity decrease and a triangular fibrocartilage complex tear in her left wrist. Appellant also submitted numerous notes of treatment at the physiatric/acupuncture treatment office dated November 15, 2006 to January 10, 2007. She submitted a follow-up patient evaluation from the acupuncture center indicating that she still experiences constant bilateral hand pain. Finally, appellant also submitted a medical report by Dr. David S. Zelouf, a Board-certified orthopedic surgeon, specializing in hand surgery, who noted that she had vague complaints including pain, swelling an aching sensation with difficulty of gripping. Dr. Zelouf noted subjective complaints with no objective findings. He stated that he could not explain her subjective symptoms.

By decision dated February 22, 2007, the Office denied appellant's claim for a recurrence of disability as the evidence was not sufficient to establish that appellant was unable to perform the restricted-duty work to which she was assigned because of a material worsening of the accepted condition.

LEGAL PRECEDENT

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 which resulted from a previous injury or illness without an intervening injury or new exposure to the work environment.¹

When an employee who is disabled from the job she held when injured on account of employment-related residuals returns to a limited duty position or the medical evidence of record establishes that she can perform the limited-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 to show that she cannot perform such limited-duty work. 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 limited-duty job requirements.²

¹ 20 C.F.R. § 10.5(x).

² *Barry C. Petterson*, 52 ECAB 120 (2000); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

To show a change in the degree of the work-related injury or condition, the claimant must submit rationalized medical evidence documenting such change and explaining how and why the accepted injury or condition disabled the claimant for work on and after the date of the alleged recurrence of disability.³

ANALYSIS

The Office accepted that appellant sustained employment-related tenosynovitis in her right thumb. Appellant returned to full-time work with restrictions on August 21, 1994. She indicated that she stopped work on November 14, 2006.

The Board finds that appellant has not established a recurrence of disability on or about November 14, 2006. There is no allegation that there was a change in the nature and extent of the limited-duty job requirements. Moreover, none of the medical reports establish a change in appellant's medical condition that would prevent her from doing her limited-duty job. Neither Dr. Rodriguez, nor Dr. Zelouf stated that she could not perform her limited-duty assignment. They merely reported that appellant experienced pain and swelling on activity but offered no description of her work activity or mention of any debilitating employment relationship. The acupuncture notes are simply notes recording appellant's treatment. The fact that she still has pain does not indicate that appellant cannot perform her modified-job assignment.

The Board finds that appellant has not submitted sufficiently rationalized medical evidence establishing a recurrence of disability. Therefore, it finds that appellant has not met her burden of proof in this case.

CONCLUSION

The Board finds that appellant has not established a recurrence of disability on or about November 14, 2006 causally related to her accepted injury.

³ *James H. Botts*, 50 ECAB 265 (1999).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 22, 2007 is affirmed.

Issued: January 3, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board