

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TIMOTHY STOVER and DEPARTMENT OF THE NAVY,
NAVAL AIR STATION, Key West, Fla.

*Docket No. 97-2200; Submitted on the Record;
Issued June 8, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability causally related to his July 6, 1994 employment injury.

The Board has duly reviewed the case on appeal and finds that appellant did not meet his burden of proof in establishing that he sustained a recurrence of disability causally related to his July 6, 1994 employment injury.

Appellant filed a claim alleging that on July 6, 1994 he injured his ear in the performance of duty when a piece of slag entered his left ear. The Office of Workers' Compensation Programs accepted appellant's claim for marginal perforation of the eardrum. He filed a notice of recurrence of disability on June 15, 1995 alleging that he sustained irritation and loss of balance as a result of his accepted employment injury. The Office denied appellant's claim by decision dated August 17, 1995, finding that he had not submitted sufficient medical evidence. He requested reconsideration and submitted additional evidence. The Office denied modification of its August 17, 1995 decision on February 21, 1997.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his recurrence of disability commencing on or after June 15, 1995 and his July 6, 1994 employment injury.¹ This burden 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 employment factors and supports that conclusion with sound medical reasoning.²

In support of his claim, appellant submitted a report dated June 23, 1995 from Dr. Kimberly J. Ellis, an osteopath. Dr. Ellis noted appellant's history of injury. She diagnosed left ear injury with residual hearing loss, scaring and imbalance. Dr. Ellis indicated that

¹ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

² *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

appellant's conditions were related to his employment injury. This report is not sufficient to meet appellant's burden of proof as Dr. Ellis did not provide any test results or medical explanation in support of her findings that appellant experienced equilibrium problems and hearing loss due to his accepted employment injury.

The Office referred appellant for a second opinion evaluation with Dr. Steven M. Fletcher, a Board-certified otolaryngologist. In his November 1, 1996 report, Dr. Fletcher reviewed appellant's audiogram and balance tests. He concluded that appellant's mild sensorineural hearing loss was due to noise exposure and found that appellant's balance test was normal. Dr. Fletcher stated, "It is my conclusion that the slag injury may have caused a temporary imbalance, but that might have been from the middle ear dysfunction from the tympanic membrane injury, as well as some residual Eustachian tube dysfunction, but there is no inner ear disorder. This ear canal and tympanic membrane have well healed." This report does not support appellant's claim for a recurrence of disability. Dr. Fletcher submitted test results indicating that appellant had no continuing condition or disability related to his employment injury. He further explained that appellant's temporary balance problems could have been attributable to middle ear dysfunction and opined that appellant's hearing loss was noise induced as it was bilateral.

As there is no well-rationalized medical opinion evidence supporting that appellant sustained a recurrence of disability commencing June 15, 1995 causally related to his July 6, 1994 employment injury, the Office properly denied appellant's claim.

The decision of the Office of Workers' Compensation Programs dated February 21, 1997 is hereby affirmed.

Dated, Washington, D.C.
June 8, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member