

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALEJOS B. ALANIZ and DEPARTMENT OF THE AIR FORCE,
KELLY AIR FORCE BASE, TX

*Docket No. 01-512; Submitted on the Record;
Issued July 16, 2002*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on and after September 30, 1999 causally related to his accepted September 6, 1978 and November 6, 1984 employment injuries.

The Office of Workers' Compensation Programs accepted appellant's claims for aggravation of a preexisting lumbosacral strain and arachnoiditis, depression and permanent implantation of spinal column stimulator. He sustained intermittent periods of disability until stopping work on August 22, 1989. The Office subsequently placed appellant on the automatic rolls for temporary total disability. On August 10, 1993 the Office issued a loss of wage-earning capacity decision reducing appellant's wages to reflect his actual wages working for the A & L Telephone Service.

On January 26, 2000 appellant filed a claim for a recurrence of disability beginning September 30, 1999 alleging that his condition had worsened such that he was unable to continue performing the duties of owner and general manager at his business. In an attachment, appellant noted that his "back had gotten so severe that both my legs and feet ache tremendously causing my legs to give out from under me" and that he fallen several times due to this.

In a report dated January 27, 2000, Dr. Arnulfo T. Carrasco, an attending physician, diagnosed chronic pain to the lower extremities and lower back "with aggravated nerve roots causing ongoing discomfort." A physical examination revealed normal gait in ambulating, intact strength in the lower extremities, intact reflexes and "some tenderness to the lumbar paraspinal muscles and the gluteal region."

Dr. Carrasco, in a March 9, 2000 report, diagnosed "chronic pain in the low back and lower extremities with a history of arachnoiditis who appears to be doing very well." He noted that appellant underwent a lumbar epidural injection which appellant "noted significant improvement of his symptoms" and that "his pain is essentially very well controlled at this time. [Appellant] is able to work with no difficulty."

In a report dated June 6, 2000, Dr. Carrasco diagnosed chronic pain in the gluteal region and low back. He related appellant stated that his pain had increased over the past several weeks and that his “pain has become more severe and effected (sic) his range of motion and daily activities.”

In a June 10, 2000 letter, appellant related that duties at his business included answering the telephone, delivering materials to technicians and ordering supplies. He noted that when he initially started the business he worked two to four hours per day for three to four days and that he currently works one day per week. Appellant alleged that his condition had worsened such that he could not work one hour per day because he “can[not] sit or walk for long periods of time because of severe back pain with shooting pain to my legs and feet, therefore, weakening the strength of my legs.”

By decision dated June 22, 2000, the Office denied appellant’s recurrence claim as the medical evidence was insufficient to support his claim.

In a letter dated August 7, 2000, appellant requested reconsideration of the denial of his claim. He alleged that his condition had worsened over time such that he was totally disabled from any work.

On September 1, 2000 the Office denied modification of its June 22, 2000 decision.

The Board finds that appellant has not sustained a recurrence of disability on September 30, 1999 causally related to his accepted September 6, 1978 and November 6, 1984 employment injuries.

An employee 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 he claims compensation is causally related to the accepted injury.¹ This burden of proof requires that a claimant furnish 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.²

In support of his claim, appellant submitted various reports from Dr. Carrasco. In none of these reports does he conclude that appellant is incapable of performing the duties of running his business. Dr. Carrasco diagnosed chronic pain in each report, but provided no opinion that appellant was totally disabled from performing any type of work. In fact, in his March 9, 2000 report, he stated that appellant “noted significant improvement of his symptoms” after receiving lumbar epidural injection. Dr. Carrasco indicated that appellant’s pain was essentially very well controlled at this time and that he had no difficulty working at this time. No opinion was provided which supported total disability due to the accepted employment injuries.

¹ *Ricky S. Storms*, 52 ECAB ____ (Docket No. 00-1721, issued April 24, 2001).

² *Ronald A. Eldridge*, 53 ECAB ____ (Docket No. 01-67, issued November 14, 2001).

There record is devoid of any medical evidence providing a history of injury, an opinion on the causal relationship between appellant's current condition and his 1978 and 1984 employment injuries and supporting these conclusions with medical reasoning. In addition, the record contains no medical evidence supporting appellant's contention that his condition had worsened. For these reasons, the Board finds that appellant has failed to meet his burden of proof.

The decisions of the Office of Workers' Compensation Programs dated September 1 and June 22, 2000 are hereby affirmed

Dated, Washington, DC
July 16, 2002

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member