

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

JEANETTE RIDGE-GARCIA, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Las Vegas, NV, Employer**

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**Docket No. 04-117
Issued: March 5, 2004**

Appearances:
Jeanette Ridge-Garcia, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
DAVID S. GERSON, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On September 10, 2003 appellant filed a timely appeal from a March 28, 2003 decision of the Office of Workers' Compensation Programs, which denied appellant's claim for a recurrence of disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant established that she sustained a recurrence of disability due to her March 23, 1990 employment injury.

FACTUAL HISTORY

This is the second appeal in this case. On the first appeal, the Board reviewed decisions of the Office dated March 2, 1994, denying appellant's claim for a schedule award, and March 30, 1994, denying appellant's claim for a recurrence of disability.¹ By decision dated

¹ Docket No. 94-2149 (issued August 26, 1996).

August 26, 1996, the Board affirmed the Office's denial of both appellant's claim for a schedule award and appellant's claim for a recurrence of disability.²

On July 30, 2002 appellant filed another notice of recurrence of disability alleging that she had been disabled since her March 23, 1990 accident and had not worked since July 3, 1990 when she was allegedly discharged without cause.³ In support of her claim, appellant submitted a favorable decision of the Social Security Administration finding her totally disabled. By letter dated February 6, 2003, the Office advised appellant that she was required to submit factual and medical evidence in support of her notice of recurrence of disability, including a narrative medical report which provided a physician's opinion, with supporting explanation, as to the causal relationship between her current disability or condition and the employment injury. Appellant did not respond to the Office's request. By decision dated March 28, 2003, the Office denied appellant's claim for recurrence of disability finding that the evidence of record failed to demonstrate a causal relationship between the injury and the claimed condition or disability. The Office noted that appellant had not submitted any medical or factual evidence in support of her claim.

In a letter to the claims examiner received April 24, 2003, appellant referenced a prior telephone conversation and stated that she was "requesting an appeal in hearing" of her request for compensation. In support of her request, appellant submitted approximately 960 pages of additional factual and medical evidence, which was also received by the Office on April 24, 2003. The record indicates that on August 12, 2003 appellant contacted the Office in order to inquire about the status of her claim, and indicated that she had appealed to the Board, but that the Board had informed her that it had not received her appeal. The Office explained to appellant that she had the option of following her other appeal rights, such as requesting reconsideration before the Office, or resubmitting her appeal to the Board. Appellant chose to appeal to the Board.

LEGAL PRECEDENT

A person 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 she claims compensation is causally related to the accepted injury. 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

² On March 23, 1990 appellant, then a 38-year-old letter carrier, filed a claim for traumatic injury, Form CA-1, alleging that on that date she sustained multiple injuries when she was involved in a motor vehicle accident while in the performance of duty. The Office accepted appellant's claim for cervical and dorsal (thoracic) strains. Appellant was paid wage-loss benefits through January 25, 1991. Appellant had a prior accepted claim for a cervical strain, which occurred on December 19, 1989. By decision dated July 11, 1991, the Office denied payment for wage-loss benefits for the period January 26 to February 26, 1991 on the grounds that appellant had submitted no medical documentation supporting disability for that period. On October 27, 1992 and February 18, 1994 appellant requested a schedule award for permanent impairment resulting from this injury, which the Office denied on March 2, 1994. On February 18, 1994 appellant filed a claim for a recurrence of disability, alleging that she had continued to experience severe headaches, back pain, tingling and numbness of her hands and legs following the injury, and had not returned to work. By decision dated March 30, 1994, the Office denied appellant's recurrence claim finding that the evidence of record failed to demonstrate a causal relationship between the injury and the claimed condition or disability.

³ Effective August 2, 1991 the employing establishment relieved appellant of her duties for unacceptable conduct.

disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.⁴

ANALYSIS

In the present case, the record is devoid of any medical opinion which supports that appellant's accepted employment injury would have caused disability pursuant to appellant's 2002 notice of recurrence of disability. Although requested to do so by the Office, appellant did not submit any medical evidence to substantiate her condition and disability status from 1991 to 2002. While the record contains two medical reports dated February 10 and 23, 1994 from Dr. Salvador P. Baylan, in which he diagnosed chronic cervical and lumbar pain syndrome with cervical and lumbosacral radiculopathy, and referred appellant for further testing, these reports do not discuss whether appellant was disabled for work. Finally, while appellant submitted a large volume of additional evidence on April 24, 2003, the Board's review is limited to the evidence that was before the Office at the time it issued its final decision.⁵ As this evidence was not in the record prior to the Office's March 28, 2003 decision, the Board cannot review this evidence on appeal.

CONCLUSION

As appellant has failed to submit rationalized medical evidence establishing that she sustained a recurrence of disability causally related to her accepted employment injuries, she has not met her burden of proof.⁶

⁴ *Ricky S. Storms*, 52 ECAB 349 (2001).

⁵ 20 C.F.R. § 501.2; see *Kathryn A. Tuel-Gillen*, 52 ECAB 451 (2001).

⁶ *Ricky S. Storms*, *supra* note 4.

ORDER

IT IS HEREBY ORDERED THAT the March 28, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 5, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member