

rolls on September 4, 1986. On October 18, 1985 she underwent an exploratory tympanotomy and closure of a fistula in her left ear. By decision dated June 27, 1997, the Office found that appellant had sustained 100 percent permanent impairment of her left ear due to the employment injury; however, that a schedule award could not be paid as she received a third-party settlement for this injury.

On May 16, 2005 appellant filed a recurrence of disability claim alleging that on March 1, 2003 she sustained disability causally related to her January 22, 1985 employment injury. She alleged that while working for the U.S. Postal Service she lost her balance due to her inner ear condition. Appellant fell from her moving mail truck while delivering mail which resulted in a fracture of her left ankle. In a narrative statement dated May 17, 2005, she described her original employment injury and stated that, as a result, her equilibrium was completely gone. Appellant began working for the post office in November 2002 and first began her postal route on March 1, 2003. She stated that she stopped to put the mail in a postal box and fell out of her mail truck landing in a ditch and breaking her left ankle. The postal service terminated appellant's employment after this incident.

In a letter dated August 16, 2006, the Office requested additional factual and medical evidence from appellant regarding the relationship between her accepted 1985 employment injury and her broken ankle in 2003. Appellant responded on September 11, 2006 and stated that she resigned from the employing establishment on March 18, 1994. She stated that, on December 14, 2001, while working at the post office, she lost her balance and grabbed a mail cage which fell on her right foot. On March 3, 2002 while delivering mail in a mail truck appellant lost her balance and fell from the truck. She stated that she rolled into a ditch and twisted her right ankle. On May 8, 2002 appellant lost her balance and fell twice which caused her foot and ankle to break. She stated that as a result of her 1985 employment injury she had "a terrible balance problem." Appellant asserted that her balance problem caused her to become dizzy, lose her balance and fall. She submitted an unsigned audiogram dated September 6, 2006 demonstrating severe hearing loss on the left.

By decision dated September 21, 2006, the Office denied appellant's recurrence of disability claim finding that there was no medical evidence supporting that residuals of her 1985 employment injury caused her March 1, 2003 fall which resulted in a fracture of her left ankle.

Appellant requested an oral hearing on September 25, 2006. In a report dated October 3, 2006, Dr. Peter L. Rigby, a Board-certified otolaryngologist, noted her history of injury and diagnosed sudden hearing loss with trauma to her vestibular system with incomplete compensation. He diagnosed dizziness on October 31, 2006. Appellant also submitted an unsigned report dated November 6, 2006 diagnosing dizziness. She submitted an electronystagmography (ENG) report dated December 12, 2006 which was read as essentially normal.

Appellant testified at the oral hearing on January 12, 2007. She stated that she began working at the post office on December 12, 2002. On March 3, 2003 appellant agreed to drive a postal route and, as she was leaning from the delivery truck to place mail in a box, she lost her balance and fell into a ditch. Her left ankle became swollen and she returned to work two weeks later. Appellant then walked to deliver mail and fell again in April 2003. In May 2003, she fell

twice while delivering mail in a shopping area and x-rays demonstrated a fracture of her ankle. Appellant stated that her injuries actually occurred in 2002 rather than 2003. She referred to medical evidence not in the record and indicated that she had another claim file.¹ Appellant noted that she had inadvertently indicated that her left ankle was injured when the fracture actually occurred to her right ankle. She noted that she had not received any decisions regarding her other claim.

By decision dated March 27, 2007, the hearing representative affirmed the September 21, 2006 decision finding that appellant had not submitted the necessary factual and medical evidence to establish that she sustained a recurrence of disability as alleged.

LEGAL PRECEDENT

A recurrence of disability is the inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment which caused the illness. The term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force), or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.² Where an employee claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury. The burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concluded that the condition is causally related to the employment injury. Moreover, sound medical reasoning must support the physician's conclusion.³

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury. In this regard, medical evidence of bridging symptoms between the recurrence of the accepted injury must support the physician's conclusion of a causal relationship. While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.⁴

¹ There is no evidence regarding appellant's other claims in the record presently before the Board.

² 20 C.F.R. § 10.5(x).

³ *Ricky S. Storms*, 52 ECAB 349 351-52 (2001).

⁴ *Id.*

ANALYSIS

Appellant filed a claim for a recurrence of disability on May 16, 2005 alleging that on March 1, 2003 she sustained a recurrence of total disability due to her 1985 employment injury. She claimed that vertigo resulting from her 1985 employment injury caused her to fall from her mail truck on March 1, 2003 and sustain a broken left ankle. Appellant submitted a narrative statement dated May 17, 2005 restating this history. In a statement dated September 11, 2006, she noted that she sustained several injuries to her right foot or ankle on the dates December 14, 2001, March 3 and May 8, 2002 while performing her duties as a postal employee. Appellant indicated that she sustained a fracture of her right foot on May 8, 2002 when she fell twice delivering mail in a shopping mall. She attributed all of her falls to her “terrible balance problem” which she attributed to the 1985 employment injury. At the oral hearing, appellant again indicated that her recurrence of total disability began on May 8, 2002. The record does not clearly establish when her alleged recurrence of disability actually began as she has provided several different dates of injury and alleged injury to both ankles.

The Board notes that there is no medical evidence in the record establishing that appellant sustained a fracture of either her right or left ankle. Furthermore, there is no medical evidence establishing a causal relationship between appellant’s 1985 loss of hearing and her alleged falls in 2002 or 2003. The only medical evidence of record consists of reports from Dr. Rigby, a Board-certified otolaryngologist, who diagnosed hearing loss and dizziness. Dr. Rigby did not state whether appellant had a balance problem as a residual of the 1985 injury or otherwise explain how the accepted injury caused or contributed to her falls at work. There is no medical evidence supporting that appellant sustained a recurrence of disability and no evidence linking her 1985 employment injury to her falls in 2002 or 2003. Appellant failed to meet her burden of proof in establishing a recurrence of disability and the Office properly denied her claim.

CONCLUSION

The Board finds that appellant failed to submit the necessary factual and medical evidence to establish that she sustained a recurrence of disability due to her 1985 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the March 27, 2007 and September 21, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 2, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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