

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LISA A. MORRIS and DEPARTMENT OF THE NAVY,
NAVAL AIR SYSTEMS COMMAND, Alameda, Calif.

*Docket No. 97-214; Submitted on the Record;
Issued September 22, 1998*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability on or about November 7, 1995 causally related to her May 15, 1986 accepted injury.

The Board has duly reviewed the case record on appeal and finds that appellant has not met her burden of proof in establishing that she sustained a recurrence of disability on or about November 7, 1995 causally related to her May 15, 1986 accepted injury.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her recurrence of disability commencing on or about November 7, 1995 and her May 16, 1986 accepted 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 this case, the Office of Workers' Compensation Programs accepted that appellant sustained a right knee contusion and ligamentous strain due to her May 15, 1986 accepted injury and authorized compensation benefits. On November 7, 1995 appellant filed a claim for recurrence of disability alleging that "since [the] original injury I have had problems with my right knee on and off but it seems to be getting worse." By decision dated April 10, 1996, the Office denied appellant's claim finding that she had failed to establish a causal relationship between her accepted injury and the claimed condition or disability.

¹ *Mark A. Cacchione*, 46 ECAB 148 (1994).

² *Id.*

In support of her claim for recurrence of disability, appellant submitted several medical reports from Dr. James Lawrence, Board-certified in emergency medicine. In a March 18, 1996 medical report, he stated that appellant “evidently *** has an old industrial injury dated 1986,” and that she noted subjective complaints of “a yearly occurrence and a popping sensation in the right knee.” Dr. Lawrence noted a normal magnetic resonance imaging scan taken in 1991. He further noted that appellant was seen on two occasions in November 1995 by different physicians and noted their findings of a “laxity of the collateral ligament,” and probable lateral meniscus tear.” In a medical report dated April 22, 1996 Dr. Lawrence stated that appellant “has had an ongoing problem dating from this original industrial accident in 1986 and that there has been no new injury.” These reports are not sufficient to meet appellant’s burden of proof as Dr. Lawrence did not offer support of his opinion with a rationalized medical opinion establishing a causally related between appellant’s current condition and her employment-related injury. Without any explanation or rationale for the conclusion reached, such a report is insufficient to establish causal relationship.³ An award of compensation may not be based on surmise, conjecture or speculation or upon appellant’s belief that there is a causal relationship between her condition and her employment. To establish causal relationship, appellant must submit a physician’s report in which the physician reviews the factors of employment identified by appellant as causing her condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant’s medical history, states whether these employment factors caused or aggravated appellant’s diagnosed conditions and present medical rationale in support of his or her opinion. Appellant failed to submit such evidence and therefore failed to discharge her burden of proof.⁴

³ *Id.*

⁴ *Corlisa L. Sims (Smith)*, 46 ECAB 172 (1994).

The April 10, 1996 decision of the Office of Workers' Compensation Programs is hereby affirmed.⁵

Dated, Washington, D.C.
September 22, 1998

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁵ The Office, on July 29, 1996, denied appellant's request for request for reconsideration in a nonmerit decision. Further, following the Office's July 29, 1996 decision, appellant submitted additional new evidence. As the Office did not review this evidence in reaching a final decision, the Board may not consider it for the first time on appeal; *see* 20 C.F.R. § 501.2(c).