

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES L. PULLIAUM and U.S. POSTAL SERVICE,
POST OFFICE, Memphis, TN

*Docket No. 00-3; Submitted on the Record;
Issued October 16, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
VALERIE D. EVANS-HARRELL

The issue is whether appellant established that he sustained a recurrence of disability from January 25 through January 27, 1999 due to his accepted November 16, 1994 employment injury.

On November 16, 1994 appellant, then a 38-year-old mailhandler, filed a traumatic injury claim alleging that he injured his right knee in the performance of duty. The Office of Workers' Compensation Programs accepted the claim for contusion of the right knee, right medial meniscus tear and authorized arthroscopic surgery.

On January 23, 1997 the Office issued a schedule award for a five percent permanent impairment of the right knee.

On March 1, 1999 appellant filed a claim for continuing compensation on the account of disability (Form CA-8) requesting compensation from January 25 until January 27, 1999.

In a letter dated March 31, 1999, the Office informed appellant that it required medical evidence supporting his claim that the claimed disability occurring on January 25 through January 27, 1999 was causally related to his November 16, 1994 employment injury.

In response to the Office's request, appellant submitted medical reports for the period 1995 and 1996 and progress notes dated January 28 and July 20, 1998.

By decision dated April 30, 1999, the Office denied appellant's claim on the grounds that the evidence did not establish a causal connection between the injury and his claimed disability for the period January 25 through January 27, 1999 as appellant had failed to submit any medical evidence to support his recurrence claim.

The Board finds that appellant has failed to establish that he sustained a recurrence of disability from January 25 through January 27, 1999 due to his accepted November 16, 1994 employment injury.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition for which he seeks compensation was causally related to this employment injury.¹ As part of this burden of proof, appellant must 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 employment factors and supports that conclusion with sound medical reasoning.² An award of compensation may not be made on the basis of surmise, conjecture, or speculation or on appellant's unsupported belief of causal relation.³ The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship between the two.⁴

The record contains no such medical opinion. Indeed, appellant has failed to submit any medical opinion that relates his disability from January 25 through January 27, 1999 to his November 16, 1994 employment injury. For this reason, he has not discharged his burden of proof to establish the claim that he sustained a recurrence of disability as a result of his accepted employment injury.

The only medical evidence submitted by appellant was medical reports from 1995 to 1996 and progress reports from January 28 and July 20, 1998. As there is no medical evidence addressing and explaining why the claimed condition and disability from January 25 through January 27, 1999 was caused or aggravated by his November 16, 1994 employment injury, appellant has not met his burden of proof in establishing that he sustained a recurrence of disability.

¹ *Dominic M. DeScala*, 37 ECAB 369 (1986); *Henry L. Kent*, 34 ECAB 361 (1982).

² *Carmen Gould*, 50 ECAB ____ (Docket No. 97-2225, issued August 3, 1999); *Alfredo Rodriguez*, 47 ECAB 437 (1996).

³ *Alfredo Rodriguez*, *supra* note 2.

⁴ *Barbara J. Williams*, 40 ECAB 649 (1989); *James A. Long*, 40 ECAB 538 (1989).

The decision of the Office of Workers' Compensation Programs dated April 30, 1999 is hereby affirmed.

Dated, Washington, DC
October 16, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Valerie D. Evans-Harrell
Alternate Member