

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROSALIND A. DRAPER and DEPARTMENT OF HOUSING & URBAN
DEVELOPMENT, St. Louis, MO

*Docket No. 02-1106; Submitted on the Record;
Issued September 6, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof in establishing a recurrence of disability on or after August 15, 2000 causally related to her November 14, 1974 employment injury.

Appellant, a 33-year-old construction analyst, filed a notice of traumatic injury on November 19, 1974 alleging that she injured her low back, ankle and leg when she fell in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for muscular strain of the paralumbar spine and temporary aggravation of preexisting lumbar instability.

Appellant filed a notice of recurrence of disability on May 3, 1977 alleging recurrence of disability on April 11, 1977. By decision dated November 8, 1979, the Office denied appellant's claim for recurrence of disability. Appellant requested an oral hearing and by decision dated July 21, 1980, the hearing representative affirmed the Office's November 8, 1979 decision. Appellant requested review by the Board and by decision dated January 29, 1981, the Board adopted the decision of the hearing representative.¹

Appellant submitted a claim for recurrence of disability on September 14, 2000 alleging that she had a chronic condition from the 1974 employment injury and alleging recurrence of disability on August 15, 2000. By decision dated April 2, 2001, the Office denied appellant's claim. Appellant requested an oral hearing and by decision dated November 29, 2001, the hearing representative denied appellant's claim for recurrence of disability after August 15, 2000 causally related to her employment injury.

The Board finds that appellant has failed to establish a recurrence of disability on or after August 15, 2000 causally related to her November 14, 1974 employment injury.

¹ Docket No. 80-1867.

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 August 15, 2000 and her November 14, 1974 employment injury.² 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.³

In support of her claim for recurrence, appellant submitted a series of treatment notes from Dr. Stanley G. Vriezelaar, a Board-certified internist, who noted two incidents regarding appellant's back subsequent to the original work-related injury. On May 24, 1994 he stated that appellant fell on her back and on April 14, 1997 he noted that she fell on a bus with resulting back pain.

On August 28, 2000 Dr. Vriezelaar stated that appellant had a neck injury 20 years ago and that in the recent weeks her neck pain had been much worse for no clear reason. He diagnosed probable radiculitis. In a report dated September 13, 2000, Dr. Vriezelaar stated that appellant had chronic back pain related to a "workplace injury years ago" which had been worse lately. He stated that this pain had never completely gone away.

Dr. Vriezelaar completed a report on December 8, 2000 and noted that he had treated appellant since 1988. He stated that in the last two weeks appellant had experienced radiating pain into her left arm with no clear recent trauma or exacerbating activity. Dr. Vriezelaar diagnosed degenerative disc disease with degenerative spur formation in the cervical spine as demonstrated on x-ray. He stated:

"My diagnosis for [appellant] is that she has chronic degenerative disc disease and osteoarthritis of her cervical, thoracic and lumbar spine. Review of her records in my office show that her complaints date to the injury as described by the patient. I think she suffered an injury, which resulted in inflammation and development of osteoarthritis of her spine."

* * *

"My opinion is that her current exacerbation of her pain is directly related to the original insult that she suffered during her workplace activity in November of 1974."

Dr. Vriezelaar completed a report on October 9, 2001 and diagnosed chronic degenerative disc disease and osteoarthritis of her cervical, thoracic and lumbar spine. He opined that appellant's condition was related to her original injury in 1974 because "these pains began at that time."

² *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

³ *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

Dr. Vriezelaar has submitted medical evidence containing his opinion that appellant's 1974 employment injury which the Office accepted for paralumbar muscular strain and temporary aggravation of preexisting lumbar instability caused inflammation and the development of osteoarthritis of her spine resulting in her current conditions. Although Dr. Vriezelaar has offered his opinion on the causal relationship between appellant's accepted employment injury and her current conditions, he has not provided a detailed history of injury including the conditions accepted by the Office, and he has not offered any medical reasoning explaining how and why he believes that a lumbar muscle injury could and did result in osteoarthritis of the cervical, thoracic and lumbar spines.

Dr. Vriezelaar also stated that appellant's pains began at the time of her employment injury in 1974. However, the Board has held that the mere manifestation of a condition during a period of employment does not raise an inference that there is a causal relationship between the condition and the employment. Neither the fact that the condition became apparent during a period of employment nor the belief that the employment cause or aggravated a condition is sufficient to establish causal relationship.⁴

As the medical evidence submitted by appellant does not contain a clear history of injury and does not provide sufficient medical reasoning in support of the conclusion that appellant's current condition is a result of her employment injury over 25 years earlier, the Board finds that appellant has failed to meet her burden of proof.

The November 29 and April 2, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
September 6, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

⁴ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).