United States Department of Labor
Employees' Compensation Appeals Board

R.H., Appellant	)	
and	)	**Docket No. 11-998**
	)	**Issued: October 21, 2011**
DEPARTMENT OF THE ARMY, ARMY DEPOT, Corpus Christi, TX, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 15, 2011 appellant filed a timely appeal from the February 8, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied his recurrence claim. Pursuant to the Federal Employees' Compensation Act (FECA)[1] and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant sustained a recurrence of a medical condition on October 26, 2010 causally related to his November 2001 employment injury.

FACTUAL HISTORY

On November 6, 2001 appellant, then a 62-year-old aircraft sheet metal mechanic, filed a claim for workers' compensation benefits alleging that his bilateral elbow pain was a result of drilling rivets out of sheet metal skins: "I shoot and buck rivets 8 hours a day 5 days a week."

[1] 5 U.S.C. § 8101 *et seq.*

He indicated that he first became aware of his condition on November 2, 2001. OWCP accepted appellant's claim for lateral epicondylitis. Appellant retired on November 30, 2001.

On November 9, 2010 appellant filed a claim alleging that he sustained a recurrence of his medical condition on October 26, 2010: "I am a retired employee from Corpus Christi Army Depot. But when I was mowing my yard at my house, I started feeling pain on both elbows but more severe pain on my left elbow. This is the same pain I felt when I first injured myself on 11/02/01." He claimed medical treatment only.

On November 9, 2010 Dr. Alejandro Fuentes, a family practitioner, noted that appellant presented with bilateral elbow pain for one week, left greater than right, with pain worsening recently. He noted a history of epicondylitis, and after describing his findings on examination, diagnosed bilateral elbow epicondylitis, left greater than right.

Prior to Dr. Fuentes' note, the most recent medical report in appellant's record was a March 1, 2006 report from Dr. Walton Del Gallo, an examining orthopedist, who diagnosed medial epicondylitis of the left elbow.

In a decision dated February 8, 2011, OWCP denied appellant's recurrence claim. It found that the factual and medical evidence did not establish that the claimed recurrence resulted from the accepted work injury. OWCP found that the November 9, 2010 treatment note did not establish a recurrence because, based on appellant's account, the injury occurred while mowing his lawn: "We consider a condition to be a recurrence when after apparent recovery or partial recovery, an employee again becomes disabled because of the original injury without an intervening incident (either on or off the job). *If something off the job caused a condition to recur, then there is no basis to claim workers' compensation benefits for the worsened condition.*"

LEGAL PRECEDENT

The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation.[2]

A "recurrence of medical condition" means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a need for further medical treatment after release from treatment, nor is an examination without treatment.[3]

When a claim for a recurrence of medical condition is made more than 90 days after release from medical care, an employee is responsible for submitting a medical report that

[2] 20 C.F.R. § 10.5(f).

[3] *Id*. at § 10.5(y).

contains a description of objective findings and supports causal relationship between the employee's current condition and the previous work injury.[4] Where the physician provided no sound reasoning, the medical evidence is of limited probative value.[5] In order to establish that a claimed recurrence of medical condition was caused by the accepted injury, medical evidence bridging the symptoms between the present condition and the accepted injury must support the physician's conclusion of a causal relationship.[6]

ANALYSIS

The issue raised by appellant's recurrence claim is a medical one, namely, whether the bilateral elbow pain he experienced after mowing his yard on October 26, 2010 was causally related to, or a consequence of, his November 2001 employment injury, which he sustained drilling rivets out of sheet metal skins. Appellant retired almost immediately after reporting the 2001 injury and therefore was no longer exposed to the employment factors that caused his employment injury and there is a lack of medical evidence from the 2006 report of Dr. Del Gallo to contemporary notes from Dr. Fuentes in 2010 to bridge his symptoms. A sound medical explanation is required to establish any causal connection between what happened in 2001 and what happened in 2010.

The November 9, 2010 note from Dr. Fuentes did not draw that connection or provide sound medical reasoning with documented support. This was simply a typical note for a patient experiencing bilateral elbow pain for a week. As such it had little, if any, probative value on the critical issue of causal relationship.

Because the medical evidence does not establish a causal relationship between appellant's medical condition after mowing his yard in 2010 and his employment injury in 2001, the Board finds that OWCP properly denied his recurrence claim. The Board will affirm OWCP's February 8, 2011 decision.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a recurrence of a medical condition on October 26, 2010 causally related to his November 2001 employment injury.

[4] *J.F.*, 58 ECAB 124 (2006); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5(b) (April 2011).

[5] *Mary A. Ceglia*, 55 ECAB 626 (2004); *Albert C. Brown*, 52 ECAB 152 (2000).

[6] *Ricky S. Storms*, 52 ECAB 349 (2001); *C.W.*, Docket No. 07-1816, (issued January 16, 2009).

ORDER

IT IS HEREBY ORDERED THAT the February 8, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 21, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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