

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRIAN K. RICKS and U.S. POSTAL SERVICE,
POST OFFICE, Jacksonville, Fla.

*Docket No. 96-2412; Submitted on the Record;
Issued August 25, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
DAVID S. GERSON

The issue is whether appellant met his burden of proof to establish that he sustained a recurrence of disability on or after March 12, 1996 due to his May 26, 1994 employment injury.

The Board has duly reviewed the case record in the present appeal and finds that appellant did not meet his burden of proof to establish that he sustained a recurrence of disability on or after March 12, 1996 due to his May 26, 1994 employment injury.

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability and show that he cannot perform such light duty. As part of this burden the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.¹

In the present case, the Office accepted that appellant sustained an employment-related thoracic strain on May 26, 1994 and he began working in a light-duty position shortly thereafter. He stopped work on March 12, 1996 and claimed that he sustained a recurrence of total disability due to his May 26, 1994 employment injury. By decision dated May 29, 1996, the Office denied appellant's claim on the grounds that he did not submit sufficient medical evidence to show that he sustained an employment-related recurrence of disability on or after March 12, 1996.

The Board notes that appellant did not submit sufficient medical evidence to show that he sustained a recurrence of disability on or after March 12, 1996 due to his May 26, 1994 employment injury. Appellant submitted a May 3, 1996 report in which Dr. Benjamin J. Philips,

¹ *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

an attending family practitioner, indicated that his low back complaints were “due to aggravation of a preexisting condition from the May 26, 1994 accident.” This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain adequate medical rationale in support of its conclusion on causal relationship.² It has not been accepted that appellant sustained an employment-related low back condition. Dr. Philips did not describe appellant’s May 26, 1994 injury, which affected the thoracic spine rather than the lumbar spine, or explain how it could have caused total disability on or after March 12, 1996. He did not explain why appellant’s recurrence was not due to a nonwork factor such as his 1995 automobile accident or his preexisting low back condition which required surgery in 1978. Appellant submitted other medical evidence, dated between January and April 1996, which indicated that he complained of neck and low back pain. This evidence, however, is of limited probative value on the relevant issue of the present case in that it does not contain an opinion on causal relationship.³

The decision of the Office of Workers’ Compensation Programs dated May 29, 1996 is affirmed.

Dated, Washington, D.C.
August 25, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

David S. Gerson
Member

² See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

³ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).