

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MATTIE P. THORNTON and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Bay Pines, Fla.

*Docket No. 97-1153; Submitted on the Record;
Issued December 2, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability commencing January 21, 1992, the date she resigned her position, causally related to her February 8, 1991 employment injury.

On February 11, 1991 appellant, then a 40-year-old health technician, filed a claim for traumatic injury (Form CA-1) alleging that on February 8, 1991 she sustained a headache, cervical strain in her neck and shoulders, and numbness in her left wrist when an elevator she was riding at work came to an abrupt stop between the first and second floors, then dropped to the main floor. The Office of Workers' Compensation Programs accepted the claim for cervical strain. Appellant stopped work on February 9, 1991, returned to light duty on February 15, 1991 and returned to regular duty on June 28, 1991. Appellant subsequently resigned on January 21, 1992 after the birth of her child.

In support of her claim, appellant submitted intermittent treatment notes dated February 10 through June 28, 1991 from the employing establishment's health unit.

In a letter dated March 9, 1994, appellant advised that she needed more medical treatment for her injury because it was not getting any better. She advised that her treating physician, Dr. David Parrish, had recommended her to another doctor but that she could not afford to pay for the medical treatment.

On August 26, 1994 the Office indicated that appellant may have sustained a recurrence of disability. The Office requested that appellant submit medical evidence in support of her claim for recurrence of disability. The Office specifically requested that appellant submit medical evidence containing a physician's rationalized opinion addressing the causal relationship between her current condition and her original injury.¹

¹ The record does not contain a Form CA-2a notice of recurrence of disability, but the record indicates that the

The Office issued a decision denying the claim on January 23, 1995. The Office determined that the evidence submitted was insufficient to demonstrate that appellant sustained a recurrence of disability causally related to her February 8, 1991 work-related injury for cervical strain.

By letter dated January 31, 1995, appellant requested a hearing. A hearing was held on August 27, 1996. The hearing representative advised appellant of the type of medical evidence needed to support her claim.

In a decision dated and finalized on January 6, 1997, the Office hearing representative affirmed the Office's January 23, 1995 decision.

The Board finds that appellant has not sustained a recurrence of disability commencing on or after January 21, 1992 causally related to her February 8, 1991 employment injury.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability, for which compensation is claimed is causally related to the accepted 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 the employment injury and supports that conclusion with sound medical reasoning.³ 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.⁴

In the instant case, appellant provided no medical evidence identifying or supporting any causal relationship between her condition on and after June 28, 1991 and her accepted employment injury for cervical strain. Appellant returned to her regular employment duties following the accepted employment injury for cervical strain on June 28, 1991. She subsequently resigned her employment on January 21, 1992 following the birth of her child. Although appellant indicated in her March 9, 1994 letter that she was referred to treatment by her attending physician, there is no report from this physician of record addressing whether appellant had a condition after January 21, 1992 causally related to her prior employment injury. Since the record is devoid of any medical treatment records subsequent to June 28, 1991 and appellant did not comply with the Office's request that she provide additional medical evidence, the claim for recurrence of disability was properly denied. As noted above, part of appellant's burden to establish a claim for recurrence of disability is to submit a reasoned medical opinion

Office developed the claim as one for a recurrence of the accepted condition.

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

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

⁴ *Ausberto Guzman*, 25 ECAB 362 (1974).

supporting that she has a continuing condition or disability commencing January 21, 1992, the date she resigned her position that was causally related to her February 8, 1991 work injury.

The decision of the Office of Workers' Compensation Programs dated and finalized on January 6, 1997 is affirmed.

Dated, Washington, D.C.
December 2, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member