

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PHILLIP W. JONES and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION, Jamaica, N.Y.

*Docket No. 96-639; Submitted on the Record;
Issued February 17, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issues are: (1) whether appellant has established that he injured his elbow in the performance of duty on July 12, 1994; and (2) whether appellant has established that he sustained a recurrence of disability based on his employment-related left knee injury.

On July 12, 1994 appellant, then a 30-year-old electronics technician, filed a claim for compensation alleging that while in the performance of duty that day he slipped on stairs, wrenching and twisting his left knee. The Office of Workers' Compensation Programs accepted appellant's claim for left knee sprain and paid appropriate benefits.

In a medical report dated March 2, 1995, Dr. Henry Moreta, Board-certified in psychiatry and neurology, stated that he examined appellant that day and noted that appellant stated that "caught his foot and fell with resulting left elbow and left knee injury" at work and subsequently reported significant pain in both the left elbow and left knee. He recommended orthopedic consultation for the ulnar nerve entrapment for appellant's left elbow and for his knee. Dr. Moreta further noted that the left knee had improved, but that the elbow remained symptomatic.

In a medical report dated March 14, 1995, Dr. Anjani Sinha, appellant's treating physician and a Board-certified general surgeon, stated that he had examined appellant on March 8, 1995 and reported findings. He recorded appellant's medical history including an injury, in 1992 which he stated caused injury to his left knee and left elbow, noting that appellant failed to assert radicular pain at the time of the 1992 injury. Upon examination, appellant was found to have had thickening of the left ulnar nerve and symptoms of associated numbness in the left hand. Dr. Sinha recommended arthrotomy and anterior ulnar transportation of the left elbow.

In an attending physician's report dated March 14, 1995, Dr. Sinha, requested authorization to perform arthrotomy and anterior ulnar transportation on appellant's left elbow.

He stated that appellant's injury, occurred when he fell "up the stairs and hit his left knee and left elbow."

In a medical report dated March 23, 1995, Dr. Sinha, stated that appellant complained of left knee pain as a result of an employment-related injury. He noted that, based on review of an x-ray and physical examination, appellant's knee was essentially normal. Dr. Sinha therefore, requested authorization for a left knee magnetic resonance imaging (MRI) scan to assist in helping determine the cause of appellant's pain.

In a report of a telephone call dated April 3, 1995, the Office noted that appellant stated that his doctors advised him that his left elbow condition was a workers' compensation claim and that he should submit all medical evidence in support of a request to authorize surgery. The Office noted that the initial reference to his left elbow condition was March 1995.

On that same day, appellant submitted, via facsimile transmission, several medical reports addressing his left elbow condition. Among these reports was a medical report dated January 9, 1995, from Dr. Moreta who stated that on that day appellant complained of left arm pain associated with paresthesias of the fingers. Although he found left cervical radiculopathy, Dr. Moreta ordered brain and cervical MRIs for further diagnostic studies.

In a decision dated April 10, 1995, the Office denied appellant's claim for a recurrence of disability of his left knee sprain and for compensation based on his left elbow condition. In an accompanying memorandum, the Office stated that appellant failed to submit evidence, to establish that his recurrence of disability to his left knee, was causally related to the work-related injury. The Office further found that appellant failed to submit evidence that his left elbow condition was causally related to his July 12, 1994 work-related injury.

On June 2, 1995 appellant filed a claim for recurrence of disability alleging that in November 1994 he was aware that his July 12, 1994 injury, to his left leg and left elbow remained symptomatic and that his left arm "started hurting and going numb." Appellant stated that at the time he injured his left knee, he also banged his elbow, but that he failed to document that injury, because a doctor considered it insignificant. He noted that he stopped work following the recurrence on March 9, 1995. In support of his claim, appellant submitted a duty status report dated June 6, 1995, from Dr. Richard S. Goodman, a Board-certified orthopedic surgeon, who indicated that appellant was totally disabled after an April 28, 1995 "right elbow surgery ... with transfer of nerve and strain of left knee."¹

On July 5, 1995 the Office in a letter decision, notified appellant that since it had previously denied his claim for recurrence of disability on April 10, 1995, no further action would be taken in his case. The Office also advised appellant that no petition for reconsideration had been filed pursuant to the April 10, 1995 decision.

¹ Dr. Goodman referred to the operation as occurring on the right elbow. The Board notes that Dr. Sinha requested authorization for left elbow surgery on March 3, 1995 and appellant referred to his left elbow surgery in his claim form dated June 2, 1995.

On August 23, 1995 appellant, with assistance of counsel, filed a request for reconsideration on the Office's April 10, 1995 decision denying benefits. In support of his request, appellant submitted a July 7, 1995 medical report from Dr. Goodman. In that report, he demonstrated a familiarity with appellant's history of injury noting that he had initially examined appellant on May 25, 1995. He noted that recent x-rays and an MRI of appellant's knees were normal, that, upon examination, he had full range of motion in both knees in flexion and extension and that there was no swelling in either knee. Dr. Goodman stated that based on a June 1, 1995, examination, appellant noted continuing numbness of the left third, fourth and fifth digits, a painful left second digit and loss of motion of the left elbow. Appellant also noted continued symptoms of the left knee. He diagnosed strained left knee and status post elbow nerve transfer, attributing these conditions to the July 12, 1994, work-related injury finding that his fall twisted the left knee and contused the left elbow resulting in a delayed ulnar neuropathy.

On October 31, 1995 the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was repetitious or irrelevant and thus was insufficient to warrant review of the prior decision.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete factual and medical background, showing causal relationship between the injury as alleged and the claimant's current condition.²

In this case, appellant did not initially note any left elbow injury on his claim form. Further, Dr. Moreta did not explain in his medical reports how a July 12, 1994 injury, would only have become apparent and require treatment in March 1995, some nine months later. Although he recommended consultation for ulnar nerve entrapment for appellant's left elbow condition in March 1995, he did not submit a rationalized medical opinion establishing a causal relationship between the work-related injury and the left elbow condition, and thus his report is of little probative value. Dr. Sinha, a Board-certified general surgeon, stated in March 1995 that appellant had an ulnar nerve condition and numbness of the left hand. However, he offered no rationalized medical opinion establishing a causal relationship between the condition and the work-related injury. Dr. Goodman, who stated in a June 1995 report, that appellant was totally disabled after an April 1995 left elbow surgery, also failed to establish by a rationalized medical opinion that his disability was causally related to his work-related injury. In his July 7, 1995 report, Dr. Goodman noted that appellant complained of loss of motion of the left elbow. He diagnosed status post left elbow transfer and recommended physical therapy. Dr. Goodman also stated that appellant could return to work on July 3, 1994, without heavy lifting or stair climbing. He concluded that appellant injured his left elbow when he fell on July 12, 1994, which caused a delayed ulnar neuropathy. Appellant's medical reports offered no rationalized medical support regarding any causal relationship between appellant's work-related injury and his left elbow condition. Consequently, the evidence is insufficient to establish that appellant sustained an injury, to his left elbow on July 12, 1994 and the Board finds that the Office properly denied appellant's claim.

² *Joseph T. Gulla*, 36 ECAB 516 (1985).

An individual who claims a recurrence of disability due to a work-related injury, has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which the compensation is claimed is causally related to the work-related injury. This burden includes the necessity of furnishing medical evidence from a qualified physician who, on the basis of 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

In support of his claim for recurrence of his accepted condition of left knee sprain, appellant submitted a March 23, 1995 medical report, from Dr. Sinha who noted that, based on review of an x-ray and physical examination, appellant's knee was essentially normal. In a July 7, 1995 medical report, from Dr. Goodman, he stated that, based on recent x-rays and an MRI, appellant's knees were normal, that both knees had full range of motion and that neither knee demonstrated any sign of swelling. Appellant has thus not submitted the necessary rationalized medical evidence to support his notice of recurrence of disability. None of the medical evidence establishes that appellant had a continuing disability of the left knee attributable to his work-related injury and, appellant, therefore, has not met his burden of proof.

The decisions of the Office of Workers' Compensation Programs dated and October 31, July 5 and April 10, 1995 are affirmed.

Dated, Washington, D.C.
February 17, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

³ *Lourdes Davila*, 45 ECAB 139 (1993); *Louise G. Malloy*, 45 ECAB 613 (1994).