

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINWOOD E. PARKS and SMITHSONIAN INSTITUTION,
NATIONAL ZOOLOGICAL PARK, Washington, D.C.

*Docket No. 96-768; Submitted on the Record;
Issued February 11, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a recurrence of disability on or after June 20, 1986 causally related to his April 25, 1985 employment injury.

On April 25, 1985 appellant filed a claim for a traumatic injury to his lower back and left leg, occurring on that date in the performance of his federal employment. The Office of Workers' Compensation Programs accepted appellant's claim for lumbosacral strain with sciatica, authorized continuation of pay, and paid him intermittent compensation for wage-loss disability between September 16, 1985 and March 12, 1986.¹

On April 15, 1994 appellant filed a claim for a recurrence of disability beginning June 20, 1986. Appellant related that following his original employment injury he was released to light-duty employment but his supervisor did not assign him light-duty work. On the reverse side of the claim form, a supervisor with the employing establishment stated that he provided appellant with light-duty employment following his employment injury.²

By decision dated October 16, 1995, the Office denied appellant's claim on the grounds that the evidence did not establish a causal relationship between the claimed condition or disability and the employment injury.

The Board has duly reviewed the case record and finds that appellant has not established that he sustained a recurrence of disability on or after June 20, 1986 causally related to his April 25, 1985 employment injury.

¹ By decision dated October 17, 1985, the Office denied appellant's claim on the grounds that he did not establish a condition caused or aggravated by employment factors. On June 27, 1986 the Office vacated its October 17, 1985 decision and accepted appellant's claim for lumbosacral strain with sciatica.

² The record indicates that the employing establishment terminated appellant on June 20, 1986 for misconduct.

Where an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee 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 to show that he or she 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.³

In the present case, appellant sustained a lumbosacral strain with sciatica due to an injury on April 25, 1985, following which he returned to work in a limited-duty capacity. While appellant alleged that the employing establishment did not assign him light-duty employment, he submitted no evidence which would establish any change in the nature and extent of his light-duty position, as a cause of his claimed disability after June 20, 1986.⁴

Appellant, further has not submitted sufficient medical evidence to establish that he sustained a recurrence of disability on June 20, 1986 causally related to his April 25, 1985 employment injury. In a clinic note dated August 22, 1986, Dr. Dorothy Millon, a Board-certified internist, stated, “[Appellant] is now la[i]d off with his job, but he is trying to appeal the decision, and I would agree with him fully in the fact that he can return to work and can do his job as previously stated.” As Dr. Millon finds that appellant can perform his employment duties, her report does not support his claim.

In a clinic note dated December 31, 1986, Dr. Millon stated that she treated appellant on that date for low back pain on the left side. She, however, did not provide a diagnosis or discuss the history of injury or causal relationship, and thus her opinion is insufficient to meet appellant’s burden of proof.

In a report dated April 15, 1987, Dr. Nickolaus Mendjuk, a Board-certified internist, noted that appellant had a history of lumbar disc syndrome with right sciatica. On examination, Dr. Mendjuk found mild limitation in the range of motion of the lumbar spine. He diagnosed “[l]umbar disc syndrome with right sciatica, currently in remission.” However, Dr. Mendjuk did not relate the diagnosed condition to appellant’s April 25, 1985 employment injury and further does not indicate that he has any disability. Thus, his opinion does not support appellant’s claim.

In a report dated March 14, 1994, Dr. Laura Isensee, a Board-certified neurologist, noted appellant’s history of injury and findings on physical examination. Dr. Isensee diagnosed intermittent low back pain and bilateral lower extremity pain and opined that the cause of the pain was “muscular in etiology.” She does not relate appellant’s low back pain to his August 25, 1985 employment injury and therefore her opinion is of little probative value.⁵

³ *Terry R. Hedman*, 38 ECAB 222 (1986).

⁴ By letter dated July 29, 1994, the Office requested additional information from appellant regarding the circumstances surrounding his alleged recurrence of disability; however, appellant did not respond to the request.

⁵ Appellant further submitted chart notes indicating that he received treatment on various dates for a back condition; however, none of the chart notes address the relevant issue of whether appellant sustained a recurrence of

As appellant failed to submit rationalized medical evidence establishing that his claimed recurrence of disability is causally related to his accepted employment injury, the Office properly denied his claim for compensation.

The decision of the Office of Workers' Compensation Programs dated October 16, 1995 is hereby affirmed.

Dated, Washington, D.C.
February 11, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

disability on June 20, 1986 causally related to his April 25, 1985 employment injury.