

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CALLIE HODGES and DEPARTMENT OF THE ARMY,
TOOELE ARMY DEPOT, Tooele, Utah

*Docket No. 96-1091; Submitted on the Record;
Issued February 19, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof to establish a recurrence of total disability, due to her employment-related shoulder condition.

The Board has duly reviewed the record and finds that appellant has not met her burden of proof to establish a recurrence of total disability, due to her employment-related shoulder condition.

Appellant 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 her November 29, 1994 employment injury.¹ This burden includes the necessity of furnishing medical evidence from a qualified physician who, on the basis of a complete and accurate, factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.²

On June 3, 1993 appellant, a painter, filed an occupational disease claim for pain in her left arm, which she related to sanding equipment. Appellant noted that she became aware of her condition in April 1993 and she submitted an emergency room report from the employing establishment health facility, where she was diagnosed with a shoulder strain. She was treated again twice in June 1993, and was placed on work restrictions for her left shoulder strain. Following the acceptance of appellant's claim for a left shoulder strain, the Office of Workers' Compensation Programs received a form report dated July 30, 1993, which listed the diagnosis as bursitis.

¹*Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Kevin J. McGrath*, 42 ECAB 109 (1990).

² *Id.*

On September 11, 1995 appellant filed a claim for a recurrence of total disability, noting that while she was not disabled due to her condition, she continued to have left shoulder and upper arm pain with a sensation as if something was catching. She indicated the need for further medical treatment.

By letter dated October 24, 1995, the Office requested the medical records and clinical notes of her treatment since July 30, 1993. No response from appellant was forthcoming. By decision dated November 27, 1995, the Office denied appellant's claim for a recurrence of total disability due to her prior accepted shoulder condition.

The Board notes that, on appeal, appellant submitted physical therapy records and noted that her physicians were not sure whether she had sustained a rotator cuff tear or whether she had bursitis. Appellant indicated that since she was terminated due to a reduction-in-force, she was no longer under an insurance plan, and was therefore seeking authorization from the Office to obtain further medical treatment.

The Board notes that it has no jurisdiction to review the physical therapy records, since such records were not before the Office at the time of its November 27, 1995 decision.³ Appellant has submitted no medical evidence to the Office to support her claim for a left shoulder condition due to her prior accepted injury. The record indicates that appellant's claim was accepted for a left shoulder strain. The burden remains on appellant to establish a condition other than a left shoulder strain, and to establish that she continues to have residuals due to the employment injury, requiring further medical treatment. Because appellant has not submitted any narrative reports from a physician addressing the causal relationship between her current shoulder condition and her prior accepted work injury, appellant has not met her burden of proof to establish a recurrence of total disability due to her prior accepted condition.

³ 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated November 27, 1995 is hereby affirmed.

Dated, Washington, D.C.
February 19, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member