

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DOUGLAS A. TATE and DEPARTMENT OF THE NAVY,
MARINE CORPS LOGISTICS BASE, Barstow, Calif.

*Docket No. 96-1351; Submitted on the Record;
Issued February 10, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that he sustained a recurrence of disability on or after March 28, 1995 due to his March 11, 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 28, 1995 due to his March 11, 1994 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.¹ 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 rationale.² Where no such rationale is present, medical evidence is of diminished probative value.³

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a left elbow contusion and bursitis at work on March 11, 1994. Appellant returned to regular duty in April 1994 and resigned from the employing establishment in August 1994 for reasons unrelated to his employment injury. He then alleged that he sustained a recurrence of disability on or after March 28, 1995 due to his March 11, 1994 employment injury

¹ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

² *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

³ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

and, by decision dated September 21, 1995, the Office denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained an employment-related recurrence of disability.

The Board notes that appellant did not submit sufficient evidence to establish that he sustained a recurrence of disability on or after March 28, 1995 due to his March 11, 1994 employment injury. The Office requested that appellant submit a rationalized medical report relating his claimed recurrence of disability to his March 11, 1994 employment injury but appellant did not provide any response to the Office's request. An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁴ Appellant failed to submit rationalized medical evidence establishing that his claimed recurrence of disability is causally related to the accepted employment injury and, therefore, the Office properly denied his claim for compensation.

The decision of the Office of Workers' Compensation Programs dated September 21, 1995 is affirmed.

Dated, Washington, D.C.
February 10, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

⁴ See *Walter D. Morehead*, 31 ECAB 188, 194-95 (1986).