

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD D. LAWLOR and U.S. POSTAL SERVICE,
POST OFFICE, Tampa, Fla.

*Docket No. 96-965; Submitted on the Record;
Issued January 16, 1998*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained a recurrence of disability, causally related to his 1980 dog bite injury.

The Office of Workers' Compensation Programs accepted that on August 19, 1980 appellant sustained a dog bite injury on his right lower forearm. He was released to work the following day.

On June 28, 1995 appellant filed a claim alleging that he sustained a recurrence of disability in December 1987, for which he stopped work on January 3, 1991. Appellant alleged that he developed consequential injury, resulting in hypertension, an anxiety disorder, and a stroke. He claimed that he had had no such conditions before the dog bite, and that therefore these conditions must be consequential to the dog bite.

The employing establishment controverted appellant's claim noting that he had filed two other claims for emotional conditions; one of which was denied on March 5, 1991, reconsideration denied October 11, 1991, and the other of which was denied on March 17, 1995.

In support of his claim appellant submitted three reports from Dr. Enrique Y. Galura, a Board-certified psychiatrist, which are inconsistent with each other. In the earliest report dated April 2, 1991, 11 years after the dog bite, Dr. Galura stated that appellant's "disability was directly related to his job based on his history," because he felt appellant was "not lying." Dr. Galura claimed that appellant was "doing well until he started getting harassed at work," and that the "last straw was when he was attacked" by the dog. However, in subsequent reports Dr. Galura states that appellant's daily stress from harassment followed the dog bite in time, with several specifically identified instances of stress being 7 to 12 years after the dog bite. In his 1991 report, Dr. Galura described appellant's condition, without specifically identifying the date but implying that it was in 1980, 11 years before he ever saw appellant, as being acute disorientation, severe anxiety, loss of memory, and global ischemia, which he claimed, without

explanation or any medical rationale, was job related. Dr Galura then stated that “this injury was definitely and unequivocally related to his job,” which the Board notes is a non sequitur, as “definitely” means “certainly” and “equivocal” means “uncertain, doubtful, or dubious.”¹ As this 1991 report is in factual conflict with subsequent reports, is discussing a condition 11 years before Dr. Galura actually examined appellant, is conclusory and lacks an explanation or medical rationale, and is internally inconsistent with itself, it has diminished probative value.

In a February 24, 1993 report Dr. Galura again discusses appellant’s condition 11 years before he examined him, and states in a conclusory manner and without any documentation or medical rationale that the dog bite caused acute anxiety which caused chest pains requiring hospital admission for 5 days. Dr. Galura stated that appellant had daily stress from harassment, but cited only to one alleged instance when the postmaster supposedly denied any knowledge of appellant’s dog bite. Dr. Galura also mentioned that appellant was suspended for 10 days on December 3, 1987 but did not discuss the cause, indicated that appellant had filed several grievances but did not discuss specific instances, and claimed that appellant had had a verbal confrontation on January 4, 1991 with a person named Mrs. Dean Trill, who subsequently went out on stress sick leave, but did not provide further details or relate a 1991 verbal altercation to appellant’s 1980 dog bite. Dr. Galura stated that prior to appellant’s dog bite he had never suffered from hypertension, but he provided no statement addressing causal relation of appellant’s hypertension to the dog bite. As Dr. Galura’s 1993 report is not based upon a 1980 contemporaneous examination of appellant, concludes without any rationale or explanation that the dog bite caused anxiety which caused chest pain, vaguely discusses appellant’s alleged employment stress, and notes only that appellant was not diagnosed with hypertension until after the dog bite, it is wholly unrationalized, vague and speculative, and therefore is of greatly diminished probative value such that it is insufficient to support appellant’s recurrence claim.

In a June 8, 1995 partial report, Dr. Galura stated that he first saw appellant following a stroke on January 3, 1991 following a heated verbal confrontation with management. He further stated that at that time appellant was also under severe stress caused by the postmaster allegedly threatening to shoot three letter carriers. Dr. Galura stated that these stressors brought on appellant’s anxiety and depression. Dr. Galura then stated that in 1980 appellant was attacked by a German shepherd and was “within that same period” hospitalized for severe angina. Dr. Galura reported that appellant’s attending physician at that time felt that the symptoms were related to the dog attack, but he did not identify that attending physician, refer to any contemporaneous medical records, or provide any discussion as to why this was the attending physician’s conclusion. Dr. Galura then mentioned a 1993 right knee injury and appellant being placed on limited duty, noting that since then appellant felt distress from management, increased depression, anhedonia, irritability, poor sleep, poor concentration and generalized anxiety, aggravated by frequent nightmares and reliving altercations at the employing establishment. Dr. Galura opined that appellant suffered from severe post-traumatic stress syndrome and a major depressive illness. He did not relate any of these symptoms to appellant’s 1980 dog bite. As this report merely repeats an unidentified physician’s conclusion pertaining to a 1980 hospitalization temporally following a dog bite, and is not supported by any contemporaneous medical records, or by any medical rationale explaining the supposed relationship, it is of greatly

¹ See *The Random House College Dictionary*, rev’d ed., p.447 (1980).

diminished probative value and is insufficient to support appellant's recurrence claim. Further this report relates appellant's current conditions to other factors than the 1980 dog bite, which further diminishes the validity of appellant's recurrence or consequential injury claim.

Lastly, appellant submitted a May 5, 1995 report from Dr. Mohan Kutty, a Board-certified internist, which indicated that appellant was first seen in 1991 suffering from confusion and total loss of memory, and which related his anxiety and hypertension to stress at work. No further specifics were given, and no mention of appellant's accepted dog bite condition in 1980 was made. Consequently this report has no probative value in supporting appellant's recurrence or consequential injury claim.

No additional medical evidence was submitted by appellant.

By decision dated January 4, 1996, the Office denied appellant's recurrence claim finding that the evidence of record failed to support that appellant's current disability was related to the accepted dog bite injury.

The Board finds that appellant has failed to establish that he sustained a recurrence of disability, causally related to his accepted 1980 dog bite injury.

An individual who claims a recurrence of disability due to an accepted employment 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. 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.² Causal relationship is a medical issue and can be established only by medical evidence.³ Such medical evidence was not submitted in this case.

The Board notes that the brief report from Dr. Kutty does not even mention appellant's 1980 accepted dog bite injury, and therefore is irrelevant to appellant's current claim.

The Board further notes that the three reports from Dr. Galura are inconsistent with each other, discuss histories not supported by the record or by contemporaneous examination, and are purely speculative, providing no medical rationale whatsoever in support of their inferences and conclusions. Consequently, none of these reports are sufficient to establish appellant's claim. Further, these reports attribute appellant's present conditions to factors other than the 1980 dog bite injury, such that they argue against appellant's allegations of recurrence or consequential injury.

Therefore, appellant has failed to establish his recurrence or consequential injury claim.

² *Stephen T. Perkins*, 40 ECAB 1193 (1989); *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

³ *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

Accordingly, the decision of the Office of Workers' Compensation Programs dated January 4, 1996 is hereby affirmed.

Dated, Washington, D.C.
January 16, 1998

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member