

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DAVE R. HERNDON and U.S. POSTAL SERVICE,  
POST OFFICE, Conneaut, Ohio

*Docket No. 96-1760; Submitted on the Record;  
Issued May 27, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence of disability on or after October 31, 1995 causally related to his November 23, 1993 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 October 31, 1995 causally related to his November 23, 1993 employment injury.

On November 23, 1993 appellant filed a claim for an injury to his right knee and back when he slipped on mud on a sidewalk. The Office of Workers' Compensation Programs accepted appellant's claim for a right knee strain and low back strain. In a report dated December 22, 1993, a physician released appellant to return to unrestricted employment duties.

On November 7, 1995 appellant filed a notice of recurrence of disability, alleging that on October 31, 1995 he sustained a recurrence of disability, due to his November 29, 1993 employment injury. Appellant indicated that his original injury had not healed and that the pain had increased over "the last several months."

By letter dated December 7, 1995, the Office informed appellant of the evidence required to establish his claim. Appellant, however, submitted no further evidence.

By decision dated February 27, 1996, the Office denied appellant's claim on the grounds that the evidence of record did not demonstrate a causal relationship between the injury and the claimed condition or disability.

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.<sup>1</sup> This burden of proof 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.<sup>2</sup> Causal relationship is a medical issue and can be established only by medical evidence.<sup>3</sup>

In this case, appellant did not submit any factual or medical evidence in support of his claim. 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 caused by his employment is sufficient to establish causal relationship.<sup>4</sup> 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 February 27, 1996 is hereby affirmed.

Dated, Washington, D.C.  
May 27, 1998

Michael J. Walsh  
Chairman

George E. Rivers  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>1</sup> *Dennis J. Lasanen*, 43 ECAB 549 (1992).

<sup>2</sup> *Stephen T. Perkins*, 40 ECAB 1193 (1989).

<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

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