

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VARGAS K. GLOVER and U.S. POSTAL SERVICE,
BULK MAIL CENTER, Capitol Heights, Md.

*Docket No. 96-1845; Submitted on the Record;
Issued May 20, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a recurrence of disability from November 1 to 15, 1994 causally related to his November 4, 1993 employment injury.

The Office of Workers' Compensation Programs accepted that appellant sustained a cervical strain and a lumbosacral strain on November 3, 1993. Appellant's attending physician, Dr. Mercy Odunmbaken, a Board-certified family practitioner, indicated that appellant could return to light duty on December 6, 1993. In a report dated June 28, 1994, another of appellant's attending physicians, Dr. Frederick W. Gooding, a Board-certified physiatrist, stated that appellant stated to him that he was "fully functional" on that date; Dr. Gooding discharged appellant "with no restriction." Appellant returned to his regular duties.

On February 1, 1995 appellant filed a claim for a recurrence of disability from November 1 to 15, 1994 causally related to his November 3, 1993 employment injury. The Office denied this claim by a June 23, 1995 decision and refused to modify this decision by a decision dated April 18, 1996.

The Board finds that appellant has not established that he sustained a recurrence of disability from November 1 to 15, 1994 causally related to his November 4, 1993 employment injury.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability, for which he claims compensation is causally related to the accepted injury.¹ This burden includes the necessity of furnishing 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

¹ *John E. Blount*, 30 ECAB 1374 (1974).

sound medical reasoning.² In a recurrence of disability situation, generally no event other than the previous injury accounts for the disability.³ The Office's procedure manual provides that a work stoppage is not a recurrence of disability if it is caused by: "A condition which results from a new injury, even if it involves the same part of the body previously injured...."⁴

Appellant's July 1, 1995 letter describes a recurrence of disability: appellant states that on October 31, 1994 he experienced pain in his testicles and lower back, while walking at work and that later that night, after laying down for a couple of hours, he could barely walk. Causal relation, however, is a medical question that can only be resolved through medical opinion evidence,⁵ and appellant's attending physician, Dr. Odunmbaken, in a June 20, 1995 report, did not attribute appellant's disability from November 1 to 15, 1994 to his November 4, 1993 employment injury. Instead, Dr. Odunmbaken stated that appellant was seen "on November 2, 1994 with exacerbation of lumbar strain following another injury on October 31, 1994 at work." As appellant's physician attributes appellant's disability from November 1 to 15, 1994 to a new injury on October 31, 1994, appellant has not met his burden of proof to establish that this period of disability is causally related to his November 3, 1993 employment injury.

The decisions of the Office of Workers' Compensation Programs dated April 18, 1996 and June 23, 1995 are affirmed.

Dated, Washington, D.C.
May 20, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

² *Frances B. Evans*, 31 ECAB 60 (1980).

³ *Stephen T. Perkins*, 40 ECAB 1193 (1989).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3b(2) (January 1995).

⁵ *Arnold A. Alley*, 44 ECAB 912 (1993).