

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RUSSELL D. BLANCHETTE and U.S. POSTAL SERVICE,
POST OFFICE, St. Paul, Minn.

*Docket No. 97-481; Submitted on the Record;
Issued November 5, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that he had a recurrence of disability beginning January 29, 1996 causally related to his May 12, 1986 employment injury.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not met his burden of proof to establish that he had a recurrence of disability.

On August 5, 1986 appellant filed an occupational disease claim for a right elbow condition which he became aware of on May 12, 1986 and which he attributed to factors of his federal employment. The Office of Workers' Compensation Programs accepted appellant's claim for lateral epicondylitis of the right elbow and aggravation of arthritis of the right elbow. The Office further authorized an arthrotomy of appellant's right elbow, which was performed on October 1, 1990. Appellant subsequently returned to his regular employment duties.¹

In a letter dated January 29, 1996, appellant requested that his case be reopened in order for him to receive additional treatment for his right elbow. By letter dated February 9, 1996, the Office informed appellant of the definition of a recurrence of disability and discussed the evidence required to support his claim.

On February 26, 1996 appellant filed a notice of recurrence of disability alleging that on January 29, 1996 he sustained a recurrence of disability causally related to his May 12, 1986 employment injury. Appellant related that he began experiencing pain and locking in his right elbow and that he believed the problem was due to a recurrence of bone chips. He stated, "I believe the continued deterioration of the joint from the original injury is the cause of the new chips." Appellant did not stop work following the alleged recurrence of disability.

¹ On April 19, 1994 appellant filed a claim for a schedule award. By decision dated June 20, 1995, the Office granted appellant a schedule award for a five percent permanent impairment of his right arm.

By decision dated June 13, 1996, the Office denied appellant's claim on the grounds that the evidence failed to establish that he sustained a recurrence of disability causally related to his May 12, 1986 employment injury. By decision dated October 8, 1996, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was insufficient to warrant modification of the prior decision.

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 disability for which he claims compensation is causally related to the accepted injury.² 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 sound medical reasoning.³

In the present case, appellant sustained lateral epicondylitis and aggravation of arthritis of the right elbow due to factors of his federal employment. Following treatment, he resumed regular employment. In support of his claim for a recurrence of disability, appellant submitted an x-ray report of his right elbow dated January 12, 1995 which a radiologist interpreted as revealing "advanced degenerative joint disease with question of one or two intra-articular loose bodies." However, the x-ray report is of little probative value regarding the issue in the instant case as it does not contain a physician's opinion attributing the diagnosed condition to appellant's accepted employment injury.

Appellant further submitted medical reports dated from 1987 to 1994. These reports, however, are not pertinent to determining whether appellant had any condition or disability subsequent to January 1996 causally related to his May 1986 employment injury, and thus are of little probative value.

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.⁴ To establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and his medical history, states whether the employment injury caused or aggravated appellant's diagnosed conditions and presents medical rationale in support of his or her opinion. Appellant failed to submit such evidence in this case and, therefore, has failed to discharge his burden of proof.

² *Robert H. St. Onge*, 43 ECAB 1169 (1992).

³ *Id.*

⁴ *Donald W. Long*, 41 ECAB 142 (1989).

The decisions of the Office of Workers' Compensation Programs dated October 8 and June 13, 1996 are hereby affirmed.

Dated, Washington, D.C.
November 5, 1998

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member