

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LARRY D. RISNER and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, Ohio

*Docket No. 97-950; Submitted on the Record;
Issued November 19, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on July 2, 1996 causally related to his July 30, 1992 employment injury.

On July 30, 1992 appellant a regular carrier, filed a claim asserting that he injured his left wrist while in the performance of his duties when he slipped on a wet walkway and fell. The Office of Workers' Compensation Programs accepted his claim for left wrist sprain. Appellant worked limited duty until a recurrence of disability on September 21, 1992. The Office accepted his claim of recurrence and the additional conditions of lumbar radiculopathy and left knee strain.¹

On July 9, 1996 appellant filed a claim asserting that he sustained a recurrence of disability on July 2, 1996 as a result of his employment injury on July 30, 1992. To support this claim, he submitted two medical reports.

In a report dated March 11, 1996, Dr. Michael D. Eppig, appellant's attending orthopedic specialist, related appellant's history of injury and course of medical treatment. He concluded as follows:

"It is my diagnosis that [appellant] had a prolonged course of back pain and left leg radiculopathy (sciatica) which was well documented prior to my first meeting him. These relate to a small disc herniation at the L5, S1 level. Although he has done adequately in being able to continue with his previous work, he request[s] and I also recommend that he change jobs. His routine work as a letter carrier requires substantial amounts of lifting and necessarily involved the risk of falling.

¹ Appellant sustained a second injury in the performance of duty on August 19, 1995, which the Office accepted for "low back strain/sprain" and "dog/fall." In decisions dated May 12, 1995 and July 12, 1996, the Office denied appellant's claim of a recurrence beginning June 4, 1994.

Recognizing that he has had now three and one half years of waxing and waning back pain and left leg pain as a result of these injuries in his work, I would strongly recommend that he obtain a job position that does not entail significant risk of falling and does not require significant lifting greater than 10 to 15 pounds on a regular basis.”

In a March 10, 1996 report, Dr. Stephen Altic, appellant’s family practitioner, noted appellant’s July 30, 1992 employment injury, related appellant’s chief complaint, history and findings on physical examination. Dr. Altic concluded as follows:

“[Appellant] suffers from a left lumbar radiculopathy at L5-S1. This condition did not exist prior to the injury of July 30, 1992. His symptoms and clinical findings have been persistent and consistent with this condition from that time until now, in an unabated fashion. This fact is borne out by specialists’ evaluations. The fact that he performed his regular work duties during this time, and was not treated medically on a highly frequent basis, do not diminish the fact that his current complaints stem from his original injury of July 30, 1992[.]

“It is my unequivocal opinion that the current complaint of [appellant], of a left L5-S1 lumbar radiculopathy, is a direct result of his work-related injury sustained July 30, 1992.”

In a decision dated October 23, 1996, the Office denied appellant’s claim on the grounds that the evidence failed to demonstrate a causal relationship between the recurrence of July 2, 1996 and the original work injury of July 30, 1992.

Appellant’s attorney appeals the Office’s October 23, 1996 decision.

The Board finds that the medical evidence fails to support that appellant sustained a recurrence of disability on July 2, 1996 causally related to his July 30, 1992 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to the employment injury and who supports that conclusion with sound medical reasoning.²

To support his claim of a recurrence on July 2, 1996, appellant submitted two medical reports dated March 10 and 11, 1996. Because these reports predate the claimed recurrence of disability, they do not address whether appellant’s recurrence of disability on July 2, 1996 was causally related to his accepted employment injury of July 30, 1992. Although both reports support that appellant suffers from back pain and left-sided radiculopathy from the L5-S1 level and although one report relates this condition to the accepted employment injury of July 30,

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

1992, neither addresses the specific issue raised by appellant's July 9, 1996 claim. Neither the Office nor the Board may extrapolate from these reports that appellant's recurrence of disability beginning July 2, 1996 is a result of the accepted employment injury. This is a medical issue that must be addressed by a physician who supports his or her conclusion with sound medical reasoning. Because appellant has failed to submit the medical evidence necessary to support his claim, the Board finds that he has not discharged his burden of proof.

The October 23, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
November 19, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member