

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CONNIE A. ARMSTRONG and DEPARTMENT OF THE AIR FORCE,
AIR FORCE SPACE COMMAND, PETERSON AIR FORCE BASE, Colo.

*Docket No. 96-2377; Submitted on the Record;
Issued October 14, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on or after January 16, 1996 causally related to her January 28, 1994 employment injury.

On January 28, 1994 appellant, then a 35-year-old secretary, sustained a cervical back sprain and low back sprain in the performance of duty when she slipped and fell in a parking lot at work.

In a report dated February 21, 1994, Dr. Sheldon J. Ravin, a physician whose specialty is not indicated in the case record, indicated that appellant had been able to return to work on February 11, 1994 with no reaching overhead and no lifting over 25 pounds. His diagnosis was a cervical sprain.

In a report dated March 5, 1996, Dr. Phillip A. Pennington, a Board-certified family practitioner, related that appellant had been having trouble with degenerative arthritis in her low back and that this problem caused much pain and made it difficult for her to sit for prolonged periods. In a handwritten note added to the report, Dr. Pennington stated, "This is from an injury two years ago and is ongoing."

On March 8, 1996 appellant submitted a claim indicating that she had ongoing back pain which she attributed to her January 28, 1994 employment injury.

In a report dated April 17, 1996, Dr. Pennington related that he had not treated appellant for her 1994 back injury and that she did not receive treatment from his office until February 9, 1996 regarding her low back. He indicated that an x-ray performed on February 21, 1996 showed arthritis in her low back at levels L3 and L4 which was mild in nature. Dr. Pennington stated that on February 9, 1996 appellant reported that her back pain was aggravated after she stepped off a ladder on January 16, 1996. He stated that appellant's x-ray findings of the lumbar spine could contribute to her pain "based on a natural progression of previous back injury."

By decision dated July 15, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish any causal relationship between her 1996 medical condition and her January 28, 1994 employment injury.

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained a recurrence of disability on or after January 16, 1996 causally related to her January 28, 1994 employment injury.

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.¹ 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 rationale.² Where no such rationale is present, medical evidence is of diminished probative value.³

In this case, appellant sustained cervical and lumbar sprains in the performance of duty on January 28, 1994 when she slipped and fell at work. On March 8, 1996 appellant filed a claim for a recurrence of disability.

In a report dated March 5, 1996, Dr. Pennington, a Board-certified family practitioner, related that appellant had been having trouble with degenerative arthritis in her low back. In a handwritten note added to the report, Dr. Pennington stated, "This is from an injury two years ago and is ongoing." However, Dr. Pennington did not provide any rationalized medical opinion explaining how appellant's degenerative arthritis was caused or aggravated by the employment-related back sprain which occurred two years earlier. Therefore, this report is not sufficient to establish that appellant sustained an employment-related recurrence of disability in 1996 causally related to the 1994 employment injury.

In a report dated April 17, 1996, Dr. Pennington related that he had not treated appellant for her 1994 back injury and that she did not receive treatment from his office until February 9, 1996 regarding her low back. He indicated that an x-ray performed on February 21, 1996 showed arthritis in her low back at levels L3 and L4 which was mild in nature. Dr. Pennington stated that on February 9, 1996 appellant reported that her back pain was aggravated after she stepped off a ladder on January 16, 1996. He stated that appellant's x-ray findings of the lumbar spine could contribute to her pain "based on a natural progression of previous back injury." As appellant related to Dr. Pennington that her condition was caused by an incident on January 16, 1996 when she stepped off a ladder, it is unclear why Dr. Pennington attributed the problems in February 1996 to "a previous back injury." Furthermore, Dr. Pennington did not provide any rationalized explanation as to how the 1996 back condition was causally related to the 1994

¹ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

² *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

³ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

employment-related back sprain. Therefore, this report is not sufficient to establish that appellant sustained a recurrence of disability in 1996 causally related to her January 28, 1994 employment injury.

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 her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.⁴ Appellant failed to submit rationalized medical evidence establishing that her claimed recurrence of disability is causally related to the accepted employment injury and, therefore, the Office properly denied her claim for compensation.

The July 15, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
October 14, 1998

George E. Rivers
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

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