

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NORMAN L. HUGGINS and DEPARTMENT OF THE ARMY,
DIRECTORATE OF PUBLIC WORKS, Fort Leavenworth, Kans.

*Docket No. 96-1723; Submitted on the Record;
Issued September 17, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability on October 26, 1994 causally related to his April 17, 1989 employment injury.

The Board has duly reviewed the case record in the present appeal and finds that appellant has failed to meet his burden of proof to establish that he sustained a recurrence of disability on October 26, 1994 causally related to his April 17, 1989 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

On April 17, 1989 appellant, then a 43-year-old maintenance mechanic, sustained a back strain and cervical radiculopathy in the performance of duty.

In a notice of recurrence of disability dated November 9, 1994, appellant claimed a recurrence of disability on October 26, 1994 which he attributed to his April 17, 1989 employment injury.

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).

By decision dated July 19, 1995, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish causal relation between his claimed recurrence of disability commencing on October 26, 1994 and his April 17, 1989 employment injury.

In a narrative report dated October 4, 1994, Dr. Frank P. Holladay, a Board-certified neurosurgeon, provided a history of appellant's condition and related that appellant attributed his neck pain to an injury in 1990. He provided findings on examination and stated that a recent magnetic resonance imaging (MRI) scan showed an increase in cervical spondylosis as compared to a previous study. Dr. Holladay stated that appellant's neck pain was related to injuries suffered on the job in 1990 and he recommended an MRI scan to more fully evaluate appellant's condition. However, there are deficiencies in this report and therefore it does not support appellant's claim of a recurrence of disability on October 26, 1994. Appellant's employment injury occurred in April 1989, not 1990. Therefore, Dr. Holladay's report is not based upon an accurate factual background. Further, Dr. Holladay provided insufficient medical rationale explaining how appellant's problems in 1994 were causally related to his accepted employment injury.

In a report dated October 14, 1994, Dr. Dale D. Dalenberg, an orthopedic surgeon, provided a history of appellant's condition and findings on examination and diagnosed degenerative disc disease of the lumbar and cervical spines. He did not indicate that appellant was disabled from work. As Dr. Dalenberg did not opine that appellant sustained a recurrence of disability on October 26, 1994 causally related to his April 1989 employment injury, this report does not support appellant's claim.

In a form report dated October 28, 1994, Dr. Jeffrey D. Lawhead, a Board-certified family practitioner, diagnosed severe degenerative joint disease and checked the block marked "yes" indicating that the condition was causally related to appellant's 1989 employment injury. He indicated that appellant was totally disabled commencing on October 26, 1994. However, the Board has held that an opinion on causal relationship which consists only of checking "yes" to a form report question on whether the claimant's disability was related to the history given is of little probative value.⁴ Without any explanation or rationale, such a report has little probative value and is insufficient to establish causal relationship.⁵

In a report dated November 4, 1994, Dr. Lawhead provided a history of appellant's condition and noted that appellant had been seen most recently in September 1994 for back pain. He diagnosed severe degenerative joint disease of the lumbar and cervical spine. Dr. Lawhead opined that appellant was totally disabled due to "degenerative joint disease as a result of his injury in 1990." However, appellant's employment injury occurred in 1989, not 1990. Furthermore, the accepted medical conditions are a back strain and cervical radiculopathy, not degenerative joint disease. Therefore, this report does not support appellant's claim of an employment-related recurrence of disability due to the accepted condition.

⁴ *Deborah S. King*, 44 ECAB 203 (1992); *Donald W. Long*, 41 ECAB 142, 146 (1989).

⁵ *Id.*

In a report dated June 16, 1995, Dr. Satish C. Bansal, a Board-certified orthopedic surgeon and an Office referral physician, provided a history of appellant's condition and findings on examination as well as a review of the medical evidence of record and diagnosed degenerative disc disease and arthritis of the cervical spine, thoracic spine, and lumbar spine. Dr. Bansal stated:

“In my opinion, [appellant's] underlying degenerative disc disease in all areas of his spine did not get worse from [his] federal employment. The condition was preexisting, as proven from the x-rays taken soon after the injury and those were quite advanced radiological findings. Of course, he would have increased symptoms from any activities, whether it was federal employment, day-to-day activities, or vocational activities. The degenerative disc pathology would have worsened, irrespective of whether he was performing the jobs described in his job description or otherwise. In other words, the changes in the cervical, thoracic, and lumbar spine seen on the x-rays and MRI [scans] are [a] natural progression of the degenerative disc disease. Difficulty using the left arm already has been settled and further symptoms are not due to the employment.”

As Dr. Bansal opined that appellant's degenerative disc disease and arthritis were not causally related to his 1989 employment injury, this report is not sufficient to discharge appellant's burden of proof to establish that his claimed recurrence of disability in October 1994 was causally related to his 1989 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 his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁶ 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 July 19, 1995 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
September 17, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

⁶ See *Walter D. Morehead*, 31 ECAB 188, 194-95 (1986).

Michael E. Groom
Alternate Member