

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAYMOND H. SPELLMEYER and U.S. POSTAL SERVICE,
POST OFFICE, Jersey City, N.J.

*Docket No. 97-790; Submitted on the Record;
Issued January 5, 1999*

DECISION and ORDER

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

The issue is whether appellant has met his burden of proof to establish that he was disabled from June 30 through July 4, 1995 causally related to the accepted employment injury of January 25, 1984.

In the present case, the Office of Workers' Compensation Programs has accepted that appellant, a vehicle operations assistant, sustained a lumbosacral sprain, right knee strain, patellofemoral chondromalacia and herniated nucleus pulposus as a result of a slip and fall on January 25, 1984. The Office has also accepted that appellant sustained a number of recurrences of disability due to this 1984 injury.

On May 30, 1995 the Office authorized that appellant undergo a series of epidural steroid treatments. Appellant underwent an epidural steroid injection on June 16, 1995 and returned to work on June 19, 1995. Appellant underwent another epidural steroid treatment on June 30, 1995. Appellant's physician, Dr. Jay Tendler, Board-certified in anesthesiology, indicated that appellant would be on bed rest until July 5, 1995. Appellant filed a notice of recurrence of disability alleging that he was disabled from June 30 until July 5, 1995. On November 14, 1995 the Office informed appellant that the Office medical adviser had opined that patients could return to work the same day or at the very latest the next day following an epidural injection. The Office advised appellant that although his physician had stated that he was supposed to be on bed rest from June 30 until July 5, 1995, he had not provided any medical rationale and must state why bed rest was required.

On November 20, 1995 Dr. Tendler reported that on June 30, 1995 appellant presented with a complaint of severe back pain, that appellant had undergone steroid epidural two weeks prior with temporary relief of pain. Dr. Tendler stated that, after the June 30, 1995 injection, appellant was instructed to rest his back as much as possible for one week. The Office denied appellant's claim by decision dated December 19, 1995. An Office hearing representative affirmed the denial of the claim on November 6, 1996.

An employee 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 he claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish 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 supports that conclusion with sound medical reasoning.¹

The medical evidence of record establishes that appellant underwent authorized epidural steroid injection on June 30, 1995. The record also establishes that Dr. Tendler recommended bed rest until July 5, 1995. Although requested by the Office to submit rationalized medical evidence explaining why appellant could not return to work within a day of the steroid injection, appellant did not provide the medical evidence requested.

The Board has given careful consideration to the issues involved, the contentions of appellant on appeal and the entire case record. The Board finds that the decision of the Office hearing representative, dated and finalized on November 6, 1996, is in accordance with the facts and law in this case and hereby adopts the findings and conclusions of the hearing representative.

The decision of the Office of Workers' Compensation Programs dated November 6, 1996 is hereby affirmed.

Dated, Washington, D.C.
January 5, 1999

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

¹ *Dennis J. Lasanen*, 43 ECAB 549 (1992).