

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRED L. VAUGHN and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Cleveland, Ohio

*Docket No. 97-1382; Submitted on the Record;
Issued January 22, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence of disability after March 19, 1996 that was causally related to his accepted employment injury of right shoulder strain.

On January 30, 1996 appellant, then a 47-year-old mail handler, filed a notice of traumatic injury and claim, alleging that on January 29, 1996, he injured his neck and shoulder on the right side from repeated lifting. Appellant was released for work and returned to work with restrictions on lifting over five pounds, no overhead work or reaching and no pulling or pushing. On April 26, 1996 appellant filed a claim for recurrence of disability beginning March 19, 1996. Appellant indicated that he had undergone major cervical spinal surgery on March 25, 1996. In a letter dated May 24, 1996, the employing establishment offered appellant a limited-duty position as a modified mail handler. Appellant accepted this position on May 28, 1996 and returned to work. In a decision dated June 26, 1996, the Office of Workers' Compensation Programs denied appellant's claim for recurrence of disability on the grounds that the medical evidence did not establish a causal relationship between the claimed recurrence and his accepted employment injury. In merit decisions dated December 26, 1996 and February 7, 1997, the Office denied appellant's requests for reconsideration on the grounds that the evidence submitted was not sufficient to establish modification.

The Board has carefully reviewed the entire case record on appeal and finds that appellant has not established that he sustained a recurrence of disability after March 19, 1996 that was causally related to his accepted employment injury.

Where appellant claims 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 subsequent disability for which he claims compensation is causally related to the accepted injury.¹ 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

¹ *John E. Blount*, 30 ECAB 1374 (1979).

that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.²

In the present case, appellant submitted radiographic evidence dated December 20, 1995 and magnetic resonance imaging scans dated January 9, 1996 which revealed spondylosis, large disc herniation at the C3-4 with extension of the disc posterior and severe canal stenosis and moderate to severe stenosis at the C4-5. He also submitted evidence which confirmed that he underwent surgery on March 25, 1996 for extruded cervical discs and anterior discectomies. Appellant also submitted medical reports and office notes from Drs. Morton Grossman, an internist, Tom I. Abelson, Board-certified otolaryngologist, Young H. Kim, Board-certified anesthesiologist, and Melvin Shafron, a Board-certified neurosurgeon, in addition to numerous duty status form reports and attending physicians' form reports. However, none of the narrative reports of record relate appellant's cervical surgery, complications after surgery or any disability due to the surgery to his accepted injury. In addition, although a few of the attending physicians' forms and duty status forms have boxes checked which indicate that the limitations are related to the accepted history of injury, these reports are not rationalized as the physicians did not provide any explanation or rationale for their opinions that the diagnosed medical condition was causally related to the accepted employment injury or history of injury.³ As the record is essentially devoid of medical evidence relating appellant's claimed recurrence to his employment injury, appellant has not met his burden of proof.

The decisions of the Office of Workers' Compensation Programs dated February 7, 1997, December 26 and June 26, 1996 are hereby affirmed.

Dated, Washington, D.C.
January 22, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

² *Frances B. Evans*, 32 ECAB 60 (1980).

³ *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).