

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROY M. VASQUEZ and U.S. POSTAL SERVICE,
POST OFFICE, Peoria, Ill.

*Docket No. 98-33; Submitted on the Record;
Issued June 1, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability from July 20 to 23 and October 26 to 30, 1995 causally related to his accepted employment injury.

The Board has duly reviewed the case record on appeal and finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability from July 20 to 23 and October 26 to 30, 1995 causally related to his accepted employment injury.

Where appellant claims a 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 evidenced from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.²

In the instant case, the Office of Workers' Compensation Programs accepted appellant's occupational disease claim for bilateral epicondylitis. Appellant did not stop work. On November 11, 1995 appellant alleged that he sustained a recurrence of disability on July 14, 1995 causally related to his accepted employment injury. Appellant stopped work following the alleged recurrence of disability on July 20, 1995 and returned to work on July 24, 1995. By letter dated November 22, 1995, the employing establishment indicated that appellant had related that he could not work on October 26 and 27, 1995 due to problems with his elbow.

¹ *Robert H. St. Onge*, 43 ECAB 1169 (1992).

² *Id.*

By decision dated January 25, 1996, the Office denied appellant's claim on the grounds that the evidence did not establish a causal relationship between his accepted injury and his claimed recurrence of disability from July 20 to 23 and October 26 to 30, 1995. In a decision dated August 13, 1997, an Office hearing representative affirmed the Office's January 25, 1996 decision.

In support of his claim for a recurrence of disability, appellant submitted a report dated December 26, 1995 from Dr. Ronald E. Palmer, a Board-certified orthopedic surgeon. Dr. Palmer related that he had treated appellant since January 1994 for bilateral epicondylitis and that he examined him on October 30, 1995 for "complaints of right elbow pain." Dr. Palmer stated that he "released [appellant] to return to work on October 30, 1995 with a 10-pound lifting restriction for one week." He stated:

"[Appellant] advised me that his symptoms were primarily aggravated by lifting heavy bags and heavy objects which I understand are the requirements of his employment. It is therefore my opinion that there is likely a causal relationship between the activities of his employment and the necessity for medical treatment and the conditions that I treated."

Dr. Palmer diagnosed bilateral chronic lateral epicondylitis and opined that appellant may need future surgical intervention. Dr. Palmer, however, did not address whether appellant was disabled from employment due to his condition and thus his opinion is insufficient to establish that appellant sustained a recurrence of disability from July 20 to 23 and October 26 to 30, 1995 causally related to his accepted employment injury. As appellant failed to submit rationalized medical evidence establishing that his claimed disability is causally related to the accepted employment injury, the Office properly denied his claim for compensation.³

³ The Office has not terminated appellant's compensation for medical treatment in connection with his accepted employment injury; thus, the issue of appellant's entitlement to medical benefits is not currently before the Board.

The decision of the Office of Workers' Compensation Programs dated August 13, 1997 is hereby affirmed.

Dated, Washington, D.C.
June 1, 1999

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member