

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JOSEPH P. GABRINOWITZ and U.S. POSTAL SERVICE,  
POST OFFICE, New Port Richey, FL

*Docket No. 98-631; Submitted on the Record;  
Issued September 14, 1999*

---

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on August 11, 1997 causally related to his July 3, 1996 employment injury.

On July 3, 1996 appellant, then a 58-year-old rural carrier, sustained a scalp laceration, cervical strain and right elbow abrasion in the performance of duty as a result of a motor vehicle accident. Appellant returned to regular work on August 23, 1996.

On September 11, 1997 appellant filed a claim for a recurrence of disability alleging that he sustained a recurrence of disability on August 11, 1997 which he attributed to his July 3, 1996 employment injury.

In a form report dated September 11, 1997, Dr. David S. Lindberg, a Board-certified internist, diagnosed severe cervical spinal stenosis, spurs, and a pinched nerve and indicated that appellant attributed this condition to his July 3, 1996 employment injury. In answer to the form question as to whether the condition was caused or aggravated by appellant's job, he checked the block marked "yes."

In notes dated September 23, 1997, Dr. Kevin M. Sweeney, a Board-certified neurosurgeon, related that appellant had severe cervical radiculopathy at C5-6 and C6-7 and needed surgery.

In a letter dated October 5, 1997, Dr. Lindberg related that appellant had developed progressive pain in his arms and shoulders during the previous several months. He stated that the pain was related to degenerative disc disease and associated neural impingement at several cervical spine levels and that the July 3, 1996 employment injury caused the degenerative disease. He stated that appellant had been completely disabled since August 11, 1997.

On October 9, 1997 appellant underwent back surgery based on a diagnosis of cervical spondylitic radiculopathy at C5-6 and C6-7.

In a letter dated October 24, 1997, Dr. Lindberg indicated that appellant was disabled from July 3 to August 23, 1996 and then again from August 11, 1997 through an unspecified date. He stated that appellant was presently recovering from surgery.

In a memorandum dated October 23, 1997, an Office of Workers' Compensation Programs' medical adviser stated that the medical reports did not show a causal relationship between appellant's July 3, 1996 employment injury and his spinal impingement and were also insufficient to show a need for surgery.

By decision dated November 6, 1997, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that his claimed recurrence of disability on August 11, 1997 was causally related to his July 3, 1996 employment injury.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained a recurrence of disability on August 11, 1997 causally related to his July 3, 1996 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.<sup>1</sup> 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.<sup>2</sup> Where no such rationale is present, medical evidence is of diminished probative value.<sup>3</sup>

In this case, appellant sustained a scalp laceration, cervical strain and right elbow abrasion in the performance of duty as a result of a motor vehicle accident on July 3, 1996. On September 11, 1997 he filed a claim for a recurrence of disability on August 11, 1997 which he attributed to his July 3, 1996 employment injury.

In a form report dated September 11, 1997, Dr. Lindberg, a Board-certified internist, diagnosed severe cervical spinal stenosis, spurs and a pinched nerve and indicated that appellant attributed this condition to his July 3, 1996 head injury. In answer to the form question as to whether the condition was caused or aggravated by appellant's job, he checked the block marked "yes." 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.<sup>4</sup> Without any explanation or rationale, such a report has little probative value and is insufficient to establish causal relationship.<sup>5</sup> Therefore, this

---

<sup>1</sup> *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988).

<sup>2</sup> *Mary S. Brock*, 40 ECAB 461, 471 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

<sup>3</sup> *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

<sup>4</sup> *Donald W. Long*, 41 ECAB 142, 146 (1989).

<sup>5</sup> *Id.*

report is

not sufficient to establish that appellant sustained an employment-related recurrence of disability on August 11, 1997.

In notes dated September 23, 1997, Dr. Sweeney, a Board-certified neurosurgeon, related that appellant had severe cervical radiculopathy at C5-6 and C6-7 and needed surgery. However, he did not provide an opinion and explanation as to the cause of the condition and therefore this report does not discharge appellant's burden of proof.

In a letter dated October 5, 1997, Dr. Lindberg related that appellant had developed progressive pain in his arms and shoulders during the previous several months. He stated that the pain was related to degenerative disc disease and associated neural impingement at several cervical spine levels and that appellant's July 3, 1996 employment injury caused the degenerative disease. However, he failed to provide a rationalized medical opinion explaining how appellant's cervical strain sustained on July 3, 1996 caused the degenerative disc disease. Therefore, this report is insufficient to establish that appellant sustained a recurrence of disability on August 11, 1997 causally related to his July 3, 1996 employment injury.

The November 6, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
September 14, 1999

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member