

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROY BONNIVILLE and DEPARTMENT OF THE INTERIOR, NATIONAL
PARK SERVICE, COLONIAL NATIONAL HISTORICAL PARK, Yorktown, VA

*Docket No. 98-2297; Submitted on the Record;
Issued August 14, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he had a recurrence of disability due to his accepted employment-related condition.

On March 10, 1995 appellant, then a 50-year-old gardener, filed a claim for carpal tunnel syndrome, which he related to using a weed whip machine at work, which required a repetitive squeezing motion. In a July 28, 1995 decision, the Office of Workers' Compensation Programs rejected appellant's claim on the grounds that fact of an injury was not established. In an August 15, 1995 letter, appellant requested a hearing before an Office hearing representative. At the February 7, 1996 hearing, the Office hearing representative summarily found that appellant had sustained a strain of the left wrist and was, therefore, entitled to medical benefits as he had not lost time from work due to the employment injury. He, therefore, reversed the July 28, 1995 decision of the Office.

On August 1, 1997 appellant filed a claim for a recurrence of disability effective April 29, 1997. He indicated that he did not lose time from work but stated that he needed medical treatment for numbness in his left hand. He reported that on January 9, 1996 he slipped on ice and fell, hitting his head and injuring his left elbow. He noted that he had spinal cord surgery on October 21, 1996 that was not work related. In a November 7, 1997 decision, the Office rejected appellant's claim for recurrence of disability.

In a June 19, 1998 letter, appellant requested reconsideration. In a June 29, 1998 decision, the Office denied appellant's request for reconsideration because he did not submit new and relevant evidence or substantive legal argument in support of his request.

The Board finds that appellant had not established that he sustained a recurrence of disability arising from his accepted employment-related condition.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition for which he seeks compensation was causally related to his employment injury. As part of such burden of proof, rationalized medical evidence showing causal relationship must be submitted.¹

In an April 4, 1995 report, Dr. William F. Peach, Jr., a Board-certified neurosurgeon, indicated that appellant had sustained a fracture at C1-2 in 1970 for which he had a fusion. He noted that x-rays showed degenerative joint and disc disease in the region C3-6. Dr. Peach diagnosed possible mild radiculopathy on the left to account for the forearm dyesthesias extending into the fingers and the reflex asymmetry and x-ray evidence of degenerative changes in the cervical spine and postoperative changes at C1-2. In a June 30, 1995 report, Dr. Peach indicated that he found no evidence of carpal tunnel syndrome.

Appellant submitted numerous medical records when he submitted his claim for a recurrence of disability due to his accepted left wrist strain. In a September 17, 1996 note, Dr. James Allen, a Board-certified neurosurgeon, stated that appellant had an automobile accident on September 15, 1996. He indicated that a magnetic resonance imaging (MRI) scan showed contusion at C6 secondary to spinal stenosis at C4-5 and C5-6 and subluxation of C1 on to C2. In a September 26, 1996 report, Dr. Allen indicated that appellant had tingling and numbness in the left side that was improving. In an October 7, 1996 report, Dr. Allen reported that appellant had profound weakness in the right arm, which was a change from the September 26, 1996 examination. On October 21, 1996 appellant underwent decompressive laminectomy at C4-5 and C6. Dr. Allen indicated that appellant had cervical myelopathy secondary to his cervical stenosis.

In a May 1, 1997 report, Dr. Allen stated that he was seeing appellant for a work-related 1995 injury, which he had not previously reported to the doctor. Dr. Allen commented that appellant had a long history of cervical spine disease with fractures in the neck in 1970 and a central cord syndrome in 1996. He stated appellant had residual effects from the central cord syndrome. Dr. Allen concluded that appellant's continued perception of abnormalities was due to his spinal cord injury. He referred appellant for an electromyogram (EMG).

In a May 14, 1997 report, Dr. Arthur R. Sonberg, a Board-certified neurologist, gave a history of appellant's cervical fracture in 1977 and a history of his feet flying out from under him on ice in 1995. Appellant noted that in 1995 his left hand would sometimes turn white, his fingers would have swelling and he would have numbness associated with the other symptoms. He indicated that he would get the condition occasionally over the year but in the past six to eight months it had been occurring more frequently, up to two to three times a week. In the prior three to four weeks, he had been experiencing the same symptoms in the right hand and similar problems had arisen in both feet in the prior week. He stated that the EMG suggested a mild peripheral polyneuropathy with some delay in the distal components as well as some delay in the ulnar motor conduction velocity. Dr. Sonberg commented that it was unclear how appellant's symptomatology was related to the EMG findings and how either was related to appellant's

¹ *Dominic M. DeScala*, 37 ECAB 369 (1986).

employment injury. He indicated that a peripheral neuropathy would be unrelated to the work-related injury. Dr. Sonberg noted that appellant had some signs of carpal tunnel syndrome.

In a May 16, 1997 report, Dr. Allen indicated that the EMG showed a diffuse peripheral neuropathy that could be due to several causes. Dr. Allen commented that the most likely diagnosis was chronic alcoholic neuropathy. He noted that the EMG showed mild carpal tunnel syndrome and some problems in the ulnar nerve that was not localized to the elbow. He stated that appellant's diffuse problems were due to his partial spinal cord injury and were not associated with his fall at work in January 1996.

The medical evidence submitted by appellant showed that he had diffuse neuropathy, mild carpal tunnel syndrome and some diffuse problem in the ulnar nerve. However, Dr. Allen related appellant's condition to his spinal cord injury sustained in a September 15, 1997 automobile accident that was unrelated to his work and to alcoholic peripheral neuropathy. He specifically stated that appellant's condition was not related to the January 1996 fall at work. Dr. Allen did not even give a history of appellant's March 1995 claim, which was accepted for left wrist strain. The EMG noted a mild carpal tunnel syndrome and difficulty in the ulnar nerve. Appellant, however, has not presented any medical report from a physician, which specifically related these conditions to appellant's March 10, 1995 claim of an employment-related injury. Appellant, therefore, has not established that he had a recurrence of his accepted left wrist strain.

The decisions of the Office of Workers' Compensation Programs, dated June 29, 1998 and November 7, 1997, are hereby affirmed.

Dated, Washington, D.C.
August 14, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member