

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DOUGLAS V. WRIGHT and DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS, Huntington, WV

*Docket No. 99-1577; Submitted on the Record;
Issued August 22, 2000*

DECISION and ORDER

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

The issue is whether appellant has established that he sustained a recurrence of disability in October 1998 causally related to his September 15, 1997 injury.

On September 15, 1997 appellant, then a 46-year-old equipment mechanic, strained his right knee and ankle while in the performance of duty. He was placed on light duty from September 16 to 22, 1997 and returned to regular duty on September 23, 1997.

Initial medical treatment records indicated that appellant was treated for a right knee and ankle sprain. X-rays revealed no fracture.

The Office of Workers' Compensation Programs accepted appellant's claim for right knee and right ankle sprain.

On February 16, 1999 appellant filed a notice of recurrence alleging that in October 1998 he had a recurrence of his September 15, 1997 injury. He asserted that his knee had remained painful and had developed "a catch." Appellant also noted experiencing worsening and swelling of the right knee, ankle and foot. He did not stop work.

On February 24, 1999 the Office advised appellant of the type of medical evidence needed to establish his recurrence claim.

By decision dated April 9, 1999, the Office rejected appellant's recurrence of disability claim on the grounds that he failed to establish that his claimed recurrent condition was related to his September 15, 1997 injury. In an accompanying memorandum, the Office stated that appellant had not submitted medical evidence to support his claim.

The Board finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability beginning in October 1998 causally related to his September 15, 1997 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.¹ 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 employment factors and supports that conclusion with sound medical reasoning.² An award of compensation may not be made on the basis of surmise, conjecture or speculation, or on an appellant's unsupported belief of causal relation.³

In this case, the Office accepted that appellant sustained a sprain to the right ankle and right knee in the performance of duty on September 15, 1997. He filed a notice of recurrence of disability commencing October 1998. The Office requested that appellant provide medical evidence that would establish a causal relationship between his current conditions and his present disability. He did not submit any medical evidence that his present condition was causally related to his September 15, 1997 employment injury. For example, appellant did not submit a medical report in which his treating physician explained why his claimed continuing condition would be related to the September 15, 1997 accepted injury. Accordingly, the Board finds that he has not met his burden of proof in this case.

The decision of the Office of Workers' Compensation Programs dated April 9, 1999 is affirmed.

Dated, Washington, D.C.
August 22, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

¹ *Lourdes Davila*, 45 ECAB 139 (1993); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

² *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

³ *Ausberto Guzman*, 25 ECAB 362 (1974).