

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RODNEY L. McCANNELLEY and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, OH

*Docket No. 00-125; Submitted on the Record;
Issued December 13, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant established that he sustained a recurrence of disability on or after September 16, 1998 causally related to his March 19, 1998 work injury.

The Board has duly reviewed the record and finds that appellant has failed to establish a recurrence of disability.

On March 18, 1998 appellant, then a 38-year-old clerk, injured his wrist lifting a tray of mail in the performance of duty. The Office of Workers' Compensation Programs accepted the claim for a left wrist strain and left shoulder impingement syndrome. Appellant missed no time from work as a result of his injury, but was placed on limited duty. He later filed a claim for a recurrence of disability beginning September 16, 1998. He alleged at that time that he was disabled from work as a result of the March 18, 1998 work injury.

By letter dated September 24, 1998, the Office advised appellant of the medical and factual evidence required to establish his claim for a recurrence of disability.

In a decision dated December 22, 1998, the Office denied compensation on the grounds that appellant's condition on or after September 16, 1998 was not causally related to the accepted work injury of March 18, 1998.

Appellant requested a hearing, which was held on June 9, 1999.

In an August 12, 1999 decision, an Office hearing representative affirmed the Office's December 22, 1998 decision.¹

Where an employee claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of the substantial, reliable

¹ The Office hearing representative indicated the date of the decision as December 23, 1998.

and probative evidence that the subsequent disability for which he or she claims compensation is causally related to the accepted injury. 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 that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.²

The Board herein adopts the summary of the medical evidence as outlined in the Office hearing representative's August 12, 1999 decision. The Board further finds that the Office hearing representative properly accorded controlling weight to the opinion of the Office referral physician.

The Board has stated that the weight of the medical evidence is determined by its reliability, its probative value and its convincing quality. The opportunity for and thoroughness of examination, the accuracy and completeness of the doctor's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the doctor's opinion are factors which enter into such evaluation.³

In this case, the report from Dr. Marc Winkelman, a Board-certified neurologist to whom the Office referred appellant, constitutes the most reliable and probative evidence on the question of whether appellant's symptoms of headaches and sensory loss on the left side of his body are causally related to the March 18, 1998 work injury. Dr. Winkelman reviewed the prior medical evidence, reported findings of an extensive examination of appellant, and, most importantly, provided convincing rationale that appellant's alleged disability was not related to his employment injury. Noting that appellant's symptoms of headaches did not start until two months after the work injury, and with due consideration to the fact that appellant never alleged a head injury on March 18, 1998, the physician was not persuaded that appellant's headaches had any correlation with his work injury. In fact, Dr. Winkelman was concerned that a brain lesion was a more reasonable etiology for appellant's symptoms of headaches and numbness. He further suggested that hypothyroidism could be responsible for appellant's complaints of an essential tremor in his left extremity.

In contrast with the opinion of Dr. Winkelman, the reports by appellant's physician, Dr. Robert Leb, are not rationalized or reliable. By Dr. Leb's own admission, he was not in a position to determine the nature of appellant's condition so he referred appellant to a neurologist, Dr. Michael Eppig. Although the neurologist diagnosed a C7 radiculopathy, he offered no opinion on causation of the radiculopathy.

Dr. Leb then prepared a cursory report dated December 1, 1998 stating that appellant's radiculopathy was caused by his work injury. Dr. Leb also cryptically noted that "the injury that brought him to see me initially is responsible for his cervical pathology and may in fact have been a manifestation of the cervical pathology." Without further explanation of his opinion with corroborating medical rationale, Dr. Leb's report has no probative value on the issue of whether appellant established a recurrence of disability causally related to his work injury.

² *Carolyn F. Allen*, 47 ECAB 240 (1995); *Jose Hernandez*, 47 ECAB 288 (1996).

³ *Melvina Jackson*, 38 ECAB 443 (1987); *Naomi A. Lilly*, 10 ECAB 560 (1959).

The Board finds that the report of Dr. Williams constitutes the weight of the medical evidence and is sufficient to establish that appellant's disability on or after September 16, 1998 was not causally related to the March 18, 1998 work injury. Consequently, the Board concludes that appellant failed to meet his burden of proof in establishing that he sustained a recurrence of disability on or after September 16, 1998 causally related to the March 18, 1998 work injury.

The decision of the Office of Workers' Compensation Programs dated August 12, 1999 is hereby affirmed.

Dated, Washington, DC
December 13, 2000

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member