

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOHNNY HUNT and DEPARTMENT OF THE NAVY,  
NAVAL SURFACE WARFARE CENTER, Louisville, KY

*Docket No. 98-1944; Submitted on the Record;  
Issued January 27, 2000*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence of disability on or after March 20, 1997 causally related to his December 12, 1995 employment injury.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet his burden of proof to establish that he sustained a recurrence of disability on or after March 20, 1997 causally related to his December 12, 1995 employment injury.

On February 21, 1996 appellant, then a 40-year-old electrical equipment worker, filed a claim for an occupational disease (Form CA-2) alleging that on December 12, 1995 he first realized that his overworked hand syndrome was caused or aggravated by his employment.

By letter dated April 10, 1996, the Office of Workers' Compensation Programs accepted appellant's claim for bilateral wrist tendinitis.

On March 25, 1997 appellant filed a claim (Form CA-2a) alleging that he sustained a recurrence of disability.<sup>1</sup> He indicated that he received medical treatment on March 20, 1997 following the recurrence. Appellant further indicated that he was placed on light duty and was

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<sup>1</sup> The record reveals that appellant was separated from the employing establishment effective August 17, 1996 due to a reduction-in-force. Beginning approximately in August 1996 through September 1997, appellant worked for Hughes Missile Systems Company.

limited to lifting no more than 10 pounds and to not engage in repetitive fine motor activities after returning to work following his employment-related injury.<sup>2</sup>

In an April 11, 1997 letter, the Office advised appellant to submit medical and factual evidence supportive of his recurrence claim.

By decision dated September 18, 1997, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability on or after March 20, 1997 causally related to his December 12, 1995 employment injury. In an October 2, 1997 letter, appellant requested an oral hearing before an Office representative.

By decision dated April 9, 1998, the hearing representative affirmed the Office's decision.<sup>3</sup>

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. This burden includes the necessity of furnishing medical evidence from a qualified 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 reasoning.<sup>4</sup>

In this case, appellant has not submitted rationalized medical evidence establishing that his wrist condition was caused by his December 12, 1995 employment injury. In support of his recurrence claim, appellant submitted the medical treatment notes of Dr. Maurer covering intermittent periods from February 7 through June 26, 1996. These treatment notes revealed a diagnosis of bilateral upper extremity overuse syndrome and appellant's medical treatment. In further support of his claim, appellant submitted Dr. Maurer's April 2, 1997 medical treatment notes. In these notes, he indicated that appellant was being treated for bilateral upper extremity overuse syndrome and appellant's complaint that since he had been released to return to work, he continued to have discomfort with easy fatigability, occasional sharper pain into his upper extremities and a sensation of loss of control and pain aggravated by his repetitive fine motor work duties over the past year. Dr. Maurer further indicated that there had been no change clinically. He noted appellant's concern about not being able to tolerate his current work duties

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<sup>2</sup> The record reveals that appellant performed light-duty work subsequent to his December 12, 1995 employment injury. The record also reveals that appellant was released to full-duty work on June 26, 1996 by Dr. Daniel T. Maurer, a Board-certified orthopedic surgeon and appellant's treating physician. The record also reveals that Dr. Maurer indicated in his April 2, 1997 medical treatment notes that appellant had been released back to his duties.

<sup>3</sup> The Board notes that it appears the hearing representative determined that appellant failed to establish a recurrence of disability on or after March 20, 1997 causally related to his December 12, 1995 employment injury based on his performance of light-duty work for Hughes Missile Systems Company, rather than the employing establishment. The record does not reveal that this company is a federal employing establishment.

<sup>4</sup> *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

and suggested that appellant seek an alternative position with the employing establishment. Dr. Maurer's medical treatment notes are insufficient to establish appellant's burden because they failed to provide a rationalized opinion establishing that appellant sustained a recurrence of disability on or after March 20, 1997 causally related to his December 12, 1995 employment injury.

Appellant also submitted Dr. Maurer's April 21, 1997 accident/disability report providing a diagnosis of bilateral upper extremity chronic overuse/repetitive motion disorder that was job related and appellant's work restrictions. In his October 1, 1997 medical report, Dr. Maurer noted that appellant had been seen on a follow-up basis in April 1997 for his bilateral upper extremity overuse syndrome. He indicated that this was the continuation of the same process for which appellant had previously been evaluated and treated in February 1996 and thereafter. Dr. Maurer concluded that this was not related to any other type of new condition. He, however, failed to provide any medical rationale in either medical report explaining how or why appellant's current condition was caused by his December 12, 1995 employment injury. Thus, Dr. Maurer's medical reports are insufficient to establish appellant's burden.

In addition, appellant submitted Dr. Maurer's May 14, 1997 medical report which is identical to his subsequent medical report dated July 2, 1997. In these medical reports, he indicated a diagnosis of chronic bilateral upper extremity overuse syndrome with spinal cord syrinx T2-3 level and mild ulnar neuropathy of the elbow. Dr. Maurer recommended that appellant seek a job that would allow him to avoid repetitive fine motor activities of his arms and repetitive carrying or lifting activities. Dr. Maurer's medical reports are insufficient to establish appellant's burden inasmuch as they failed to address whether appellant sustained a recurrence of disability causally related to his December 12, 1995 employment injury.

Although the Office advised appellant of the type of medical evidence needed to establish his claim, appellant failed to submit medical evidence responsive to this request. Consequently, appellant has failed to establish that he sustained a recurrence of disability on or after March 20, 1997 causally related to his December 12, 1995 employment injury.

The April 9, 1998 and September 18, 1997 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.  
January 27, 2000

George E. Rivers  
Member

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member