

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WENDY STANEK and U.S. POSTAL SERVICE,
POST OFFICE, Des Moines, IA

*Docket No. 98-2486; Submitted on the Record;
Issued March 9, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability on or about January 21, 1997 causally related to her November 26, 1993 accepted injury.

The Board has duly reviewed the case record on appeal and finds that appellant has not met her burden of proof in establishing that she sustained a recurrence of disability on or about January 21, 1997 causally related to her November 26, 1993 accepted injury.

It is an accepted principle of workers' compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause.¹ Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.² 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. The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated, or aggravated by the accepted injury.³ Moreover, the physician's conclusion must be supported by sound medical reasoning.⁴

¹ 20 C.F.R. § 10.121(a); *Clement Jay After Buffalo*, 45 ECAB 707, 715 (1994).

² *Robert H. St. Onge*, 43 ECAB 1169 (1992).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁴ *Mark A. Cacchione*, 46 ECAB 148 (1994).

In this case, the Office of Workers' Compensation Programs accepted that on November 26, 1993 appellant, then a 37-year-old letter carrier, sustained a lumbar strain, which resolved as of January 13, 1994. On January 23, 1997 appellant filed a claim for recurrence of disability commencing on or about January 21, 1997 alleging that she was diagnosed with lumbar degenerative disc disease and that the location was the same as her original injury. By decision dated April 30, 1997, the Office denied appellant's claim finding that she had failed to establish a causal relationship between her accepted injury and the claimed condition or disability. Appellant requested reconsideration and, in a May 8, 1998 merit decision, the Office denied appellant's request for modification of its prior decision.

In support of her claim for recurrence of disability, appellant submitted medical documentation from Dr. Michael C. Longley, an orthopedic surgeon. In a medical report of February 21, 1997, Dr. Longley stated that appellant first injured her thoracic spine in 1991 while working for the employing establishment. He reported that appellant had an exacerbation of her low back pain in 1993, was felt to have a disc herniation and was treated conservatively. Appellant reported that she has had some exacerbation of the pain this year (1997) when she loaded the trunk of her car with an assortment of pillows and sleeping bags. Appellant reported that since that time, she has had persistent back pain and has continued difficulty with her work. After performing a physical examination and reviewing x-rays, Dr. Longley diagnosed L4-5 symptomatic lumbar disc degeneration; possible thoracic disc herniation with thoracic back pain; and bipolar manic depression. Based upon the presence of abnormalities of the 1991 magnetic resonance imaging scan, Dr. Longley stated that appellant had degenerative changes prior to her first injury and that these degenerative changes were exacerbated by the physical therapy initiated for treatment of her thoracic back pain. Dr. Longley stated that this appeared to be a continuation of the original injury secondary to her physical therapy from her thoracic injury in 1991 and exacerbated by the injury in 1993.

In an April 4, 1997 treatment note, Dr. Longley set forth the results of his examination and opined that appellant has symptoms secondary to mild degenerative lumbar disc disease.

In an April 28, 1997 report, Dr. Longley noted that appellant's underlying course of back pain was that of relatively mild disc degeneration. He stated that appellant's symptoms of back pain did not indicate severe underlying pathology. He opined that appellant was significantly deconditioned and would benefit from a gradual increase in activity level. He assured appellant that although she was experiencing back pain, this did not indicate that she was injuring herself, but was simply a normal expected component of mild degenerative changes, which accompany the aging process.

The Board finds that none of the medical reports submitted address the issue of whether appellant's claimed recurrence of disability on or about January 21, 1997 is causally related to the November 26, 1993 work-related lumbar strain. Dr. Longley stated in his February 21, 1997 report that appellant experienced pain while loading the trunk of her car with pillows and sleeping bags. He then stated that appellant's complaints were a continuation of the original injury secondary to the physical therapy from her thoracic injury in 1991 and exacerbated by her injury in 1993. While Dr. Longley provided a causal connection with respect to appellant's thoracic condition, he offered no causal connection with respect to appellant's current lumbar

pain and failed to provide a rationale as to how appellant's lumbar pain was related to the November 26, 1993 accepted injury. As such, Dr. Longley's opinion on causation is of diminished probative value.⁵ It is also noted that in his April 28, 1997 report, Dr. Longley attributed appellant's back pain to the degenerative changes, which accompany the aging process.

Appellant has attributed her current low back problems to the November 26, 1993 work injury and was informed by the Office that she was responsible for obtaining a rationalized medical report in support of the 1997 recurrence of disability. However, appellant has failed to submit medical evidence, which discusses her current back condition and the accepted lumbar strain and then explains with medical rationale how the February 21, 1997 recurrence of disability was a progression of or related to the employment-related injury in 1993. Inasmuch as appellant has failed to submit probative medical evidence establishing the required connection, the Office properly denied her claim for compensation.

The decision of the Office of Workers' Compensation Programs dated May 8, 1998 is affirmed.

Dated, Washington, D.C.
March 9, 2000

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁵ See *Margarette B. Rogler*, 43 ECAB 1034, 1039 (1992) (finding that a physician's opinion that provides no medical rationale for its conclusion on causation is of diminished probative value).