

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DANNY E. BISHOP and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, OH

*Docket No. 00-122; Submitted on the Record;
Issued November 3, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issue is whether appellant established a recurrence of disability causally related to his employment injury of October 1, 1996.

On October 1, 1996 appellant, then a 49-year-old mailhandler, was injured in the performance of duty when a cart hit him in the right shoulder and back. Appellant filed a claim for a traumatic injury that was accepted by the Office of Workers' Compensation Programs for cervical and back strain. The record indicates that appellant missed no time from work but he was placed on restricted duty. Appellant was treated for his work injury by Dr. M.R. Patel and was released for full-time regular duties on November 26, 1996. Appellant received appropriate compensation benefits and the Office closed his file shortly after his return to work.

On October 26, 1998 appellant filed a (Form CA-2a) notice of recurrence of disability.

He alleged that he suffered from cervical canal neurosis as a result of his October 1, 1996 work injury.¹

In support of his claim, appellant submitted an August 13, 1998 computerized tomography (CT) scan of the cervical spine that showed minimal canal stenosis at C3-4 and neural foraminal stenosis due to bony encroachment at multiple levels.

Appellant also submitted a September 17, 1998 report by Dr. J. George Dakters, a Board-certified neurological surgeon, who stated that appellant was last seen on July 16, 1997 for mechanical back pain "aggravated by an October 1, 1996 work injury." He related that an MRI

¹ A magnetic resonance imaging (MRI) scan was authorized by the Office on April 18, 1997 and revealed spurring with canal stenosis and impingement on the cord. By letter dated September 3, 1997, the Office refused a request for authorization for appellant to undergo physical therapy related to the conditions of degenerative disc disease and spondylosis of the cervical spine.

conducted on August 14, 1998 revealed canal stenosis. He further noted that appellant had an unremarkable neurological examination.

In a letter dated November 24, 1998, the Office advised appellant of the factual and medical evidence required to establish his claim. Appellant did not respond within the time allotted by the Office.

In a decision dated December 31, 1998, the Office denied compensation on the grounds that the medical evidence was insufficient to establish a causal relationship between appellant's alleged recurrence of disability and the October 1, 1996 employment injury.

Appellant requested an oral hearing on January 27, 1999, which was subsequently held on June 8, 1999.

After the hearing, appellant submitted progress notes from Dr. B. Viswanath, a general practitioner, dated July 30, 1998 and January 26, 1999. The notes indicated that appellant was treated for headaches and pain in the back of the neck "secondary to spinal canal stenosis." Dr. Viswanath diagnosed osteoarthritis, hypothyroidism and chronic pain syndrome.

In a decision dated July 29, 1999, an Office hearing representative affirmed the Office's December 31, 1998 decision.

The Board finds that appellant failed to meet his burden of proof in establishing a causal relationship between the alleged recurrence of disability and the October 1, 1996 employment injury.

An employee 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 he claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish 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 the employment injury and supports that conclusion with sound medical reasoning.²

In the instant case, appellant has failed to submit a rationalized medical opinion to establish that he sustained a recurrence of disability or that his back condition on or after November 26, 1996, the date he returned to regular duty, is causally related to his accepted work injury. Dr. Viswanath did not mention appellant's work injury on October 1, 1996 in his reports. Dr. Dakters failed to provide any medical rationale relating appellant's mechanical back pain to the October 1, 1996 employment injury. Although appellant has been diagnosed with spinal stenosis, there is no reasoned medical evidence of record attributing that degenerative back condition to the October 1, 1996 work injury or to factors of appellant's federal employment. Because appellant failed to carry his burden of proof to establish his entitlement, the Board concludes that the Office properly denied compensation benefits.

² *Dennis J Lasanen*, 43 ECAB 549 (1992); *Robert H. St. Onge*, 43 ECAB 1169 (1992). See 20 C.F.R. § 10.104 (1999).

The decisions of the Office of Workers' Compensation Programs dated July 29, 1999 and December 31, 1998 are hereby affirmed.

Dated, Washington, DC
November 3, 2000

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member