

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of VAUGHN L. JONES and TENNESSEE VALLEY AUTHORITY,  
BELFONT NUCLEAR PLANT, Hollywood, AL

*Docket No. 00-2612; Submitted on the Record;  
Issued December 10, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a recurrence of disability on October 17, 1997 causally related to his August 15, 1977 employment injury.

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

Appellant filed a traumatic injury claim alleging that he broke his left ankle on August 15, 1977 when he fell at work. The Office of Workers' Compensation Programs accepted appellant's claim for a left ankle fracture. In November 1978 appellant returned to light-duty work in the employing establishment's carpenter shop. Appellant retired in July 1985 due to nonwork-related cancer.<sup>1</sup>

On October 17, 1997 appellant filed a claim alleging that he sustained a recurrence of disability due to continuing and worsening arthritis in his ankle.

By decision dated September 14, 1998, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability. In an August 31, 1998 letter, appellant requested reconsideration of the Office's decision and submitted medical evidence.

In an October 1, 1998 decision, the Office modified its prior decision and reopened appellant's case for medical benefits only to include the left ankle fracture and subsequent left ankle osteoarthritis. By letter dated October 31, 1998, appellant requested reconsideration of the Office's decision accompanied by medical evidence.

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<sup>1</sup> The Board notes that the record in this case had to be recreated because the original documents were missing from the federal record center.

By decision dated November 24, 1998, the Office denied appellant's request for modification based on a merit review of the claim. In several letters dated December 9, 1998, appellant requested reconsideration of the Office's decision accompanied by medical evidence.

In a September 9, 1999 decision, the Office denied appellant's request for modification based on a merit review of the claim.

An employee returning to light duty or whose medical evidence shows the ability to perform light duty has the burden of proof to establish a recurrence of temporary total disability by the weight of substantial, reliable and probative evidence, and to show that he or she cannot perform the light duty.<sup>2</sup> As part of his burden, the employee must show a change in the nature and extent of the injury-related conditions or a change in the nature and extent of the light-duty requirements.<sup>3</sup>

In this case, appellant has not shown a change in the nature and extent of his injury-related condition or of the light-duty requirements. The record shows that, following the August 15, 1977 employment injury, appellant returned to light-duty work in November 1978 in the employing establishment's carpenter shop. The record does not establish, nor does appellant allege, that the claimed recurrence of total disability was caused by a change in the nature or extent of his light-duty job requirements. Further, appellant has not submitted sufficient medical evidence establishing that the accepted conditions have materially changed or worsened since his return to work in November 1978.

The only medical evidence of record that addressed appellant's current disability was a December 1, 1998 disability certificate of Dr. Madadi Govind Reddy, an internist, who indicated a diagnosis of post-traumatic degenerative arthritis of the left ankle. He further indicated that appellant had difficulty standing for long times and going up steps, and that appellant could not run at all. Dr. Reddy opined that appellant was disabled 50 percent from ankle stiffness and arthritis. His disability certificate, however, failed to discuss whether or how appellant's condition and any resulting disability were caused by appellant's August 15, 1977 employment-related injury.<sup>4</sup> As appellant has failed to submit rationalized medical opinion evidence establishing that he sustained a recurrence of disability causally related to his accepted employment injury, he has not met his burden of proof.

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<sup>2</sup> *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

<sup>3</sup> *Daniel Deparini*, 44 ECAB 657, 659 (1993).

<sup>4</sup> *Id.*

The September 9, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
December 10, 2001

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

Priscilla Anne Schwab  
Alternate Member