

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDY ANN WAGNER and U.S. POSTAL SERVICE,
POST OFFICE, Tucson, AZ

*Docket No. 00-639; Submitted on the Record;
Issued January 19, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability in April 1999 causally related to her April 1, 1997 employment injury.

The Board has duly reviewed the case on appeal and finds that appellant failed to meet her burden of proof in establishing that she sustained a recurrence of disability in April 1999 causally related to her April 1, 1997 employment injury.

Appellant, a clerk, filed a claim alleging that on April 1, 1997 she injured her left knee, right ankle and upper lip when she fell in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for sprained right ankle and foot, left knee effusion and contusion of the lip on May 12, 1997. Appellant returned to full duty on October 9, 1997. Appellant filed a notice of recurrence of disability on May 6, 1999 alleging that in April 1999 she sustained a recurrence of her left knee condition due to her April 1, 1997 employment injury. By decision dated August 19, 1999, the Office denied appellant's claim finding that she failed to submit the necessary rationalized medical opinion evidence to meet her burden of proof.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her recurrence of disability commencing April 1999 and her April 1, 1997 employment injury.¹ This burden includes the necessity of furnishing 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 employment factors and supports that conclusion with sound medical reasoning.²

¹ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

² *See Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

In support of her claim for recurrence of disability, appellant submitted a series of medical reports describing her initial employment injury. These reports predate appellant's alleged recurrence of disability and cannot offer the necessary medical opinion evidence regarding the relationship between appellant's current condition and her accepted employment injury.

Appellant also submitted a report dated May 24, 1999 from Dr. Christopher P. Demas, a Board-certified plastic surgeon of professorial rank, who stated that appellant had orthopedic issues with her left knee in that she had fluid in her bursa and difficulty with range of motion in her knee. Dr. Demas did not provide an opinion on the causal relationship between appellant's current condition and her accepted employment injuries. Therefore his report is not sufficient to establish that appellant sustained a recurrence of disability.

In a report dated June 24, 1999, Dr. John T. Ruth, a Board-certified orthopedic surgeon, noted appellant's history of injury, medical history and performed a physical examination. Dr. Ruth stated that examination of appellant's left knee revealed some generalized fullness over the medial aspect. He stated that he could not appreciate any obvious fluctuant area of fluid that could be aspirated. Dr. Ruth found full range of motion and some pain with palpation both medially and laterally. He stated that appellant's ligaments were intact and diagnosed probable mild degenerative joint disease of the left knee. Dr. Ruth did not provide an opinion on the causal relationship between appellant's diagnosed condition of degenerative joint disease and her accepted employment injury. Without the necessary medical opinion evidence, appellant has failed to meet her burden of proof and the Office properly denied her claim.

The August 19, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
January 19, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member