

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DENNIS M. JACKSON and U.S. POSTAL SERVICE,  
SEATTLE DISTRICT OFFICE, Seattle, WA

*Docket No. 01-806; Submitted on the Record;  
Issued November 19, 2001*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a recurrence of disability on October 12, 2000 causally related to his November 19, 1996 injury.

On November 22, 1996 appellant, then a 38-year-old letter carrier, filed a traumatic injury claim alleging that he hurt his hand, wrist and shoulder while in the performance of duty. Appellant did not stop work. On December 12, 1996 the Office of Workers' Compensation Programs accepted appellant's claim for contusion of the right hand, wrist, and shoulder and cervical sprain/strain.<sup>1</sup>

On October 13, 2000 appellant filed a notice of recurrence of disability alleging that his shoulder had gotten worse. Appellant did not stop work.

On November 8, 2000 the Office advised appellant of the type of medical evidence needed to establish his recurrence of disability claim.

By decision dated December 24, 2000, the Office rejected appellant's claim on the grounds that he failed to establish that his claimed recurrent disability was related to his November 19, 1996 employment injury.

The Board finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability causally related to his accepted employment injury of November 19, 1996.

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<sup>1</sup> The record contains a separate acceptance letter dated December 28, 1998 for aggravation of ganglion cyst of the left leg and excision of the ganglion for an October 6, 1998 injury. The medical reports pertaining to that injury are in the record. However, the claim regarding left leg and ganglion cyst is not before the Board.

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 and is causally related to the accepted injury.<sup>2</sup> 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.<sup>3</sup> An award of compensation may not be made on the basis of surmise, conjecture, or speculation or on an appellant's unsupported belief of causal relation.<sup>4</sup>

In this case, the Office requested that appellant provide medical evidence that would establish a causal relationship between his current shoulder condition and his accepted injuries. Appellant did not submit any medical evidence that his present condition was causally related to his November 19, 1996 employment injury. The record contains no medical report in which appellant's treating physician explained why his shoulder condition would be related to the November 19, 1996 accepted injury.<sup>5</sup>

Accordingly, the Board finds that appellant has not met his burden of proof to establish a causal relationship between his disability beginning October 12, 2000 and the accepted 1996 employment injuries.

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<sup>2</sup> *Lourdes Davila*, 45 ECAB 139 (1993); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

<sup>3</sup> *See Nicolea Brusio*, 33 ECAB 1138, 1140 (1982).

<sup>4</sup> *Ausberto Guzman*, 25 ECAB 362 (1974).

<sup>5</sup> The Board notes that subsequent to the Office's December 24, 2000 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952). Appellant may submit the new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2) (1999); *see* 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated December 24, 2000 is hereby affirmed.

Dated, Washington, DC  
November 19, 2001

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member