

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MABEL HIGGINS and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 01-629; Submitted on the Record;
Issued September 10, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on September 5, 2000, causally related to her January 25, 2000 employment injury.

The Office of Workers' Compensation Programs accepted that appellant, a 44-year-old letter carrier, sustained a cervical strain as a result of a January 25, 2000 employment incident when she slipped while descending a flight of snow-covered stairs. Effective February 29, 2000, appellant was released to return to light-duty work. The employing establishment subsequently offered appellant several temporary light-duty assignments, which she accepted.

On September 30, 2000 appellant filed a notice of recurrence of disability (Form CA-2a), alleging that she sustained a recurrence of disability on September 5, 2000 causally related to her January 25, 2000 employment injury.

By decision dated November 21, 2000, the Office denied appellant's claim for recurrence of disability based on her failure to establish that the claimed recurrence of September 5, 2000 was causally related to the January 25, 2000 employment injury.

The Board finds that appellant failed to establish that she sustained a recurrence of disability on September 5, 2000, causally related to her January 25, 2000 employment injury.

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position, or the medical evidence of record establishes that she can perform the light-duty position, the employee has the burden of establishing by the weight of the reliable, probative, and substantial evidence a recurrence of total disability and show that she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the employment-related condition or a change in the nature and extent of the light-duty job requirements.¹ Additionally, an employee

¹ *Mary A. Howard*, 45 ECAB 646, 651 (1994); *Terry R. Hedman*, 38 ECAB 222 (1986).

who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² The employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition.³

Appellant has been diagnosed with a herniated disc at C5-6, with radiculopathy. She is currently under the care of Dr. Richard D. Lim, an orthopedist, who on September 21, 2000 advised appellant not to return to work. Dr. Lim also recommended surgical intervention.⁴ In his initial examination on July 18, 2000, Dr. Lim noted, among other things, that appellant's recent x-rays of the cervical spine revealed "age consistent degenerative changes...." The record also includes earlier x-ray evidence of degenerative changes in appellant's cervical spine that predates her January 25, 2000 employment injury.

By letter dated October 5, 2000, the Office requested that Dr. Lim provide a comprehensive medical report addressing the relationship between appellant's current condition and her employment injury of January 25, 2000. However, he did not provide such an opinion. Consequently, the record on appeal does not include a rationalized medical opinion attributing appellant's herniated disc at C5-6 to her accepted employment injury of January 25, 2000. The Office only accepted that appellant sustained a cervical strain as a result of her January 25, 2000 employment injury.⁵ As the record is devoid of any rationalized medical evidence explaining how appellant's accepted employment injury either caused or contributed to her current herniated disc at C5-6, the Office properly denied appellant's claim for compensation.

² *Bernard Snowden*, 49 ECAB 144, 148 (1997).

³ *Id.*; *Lourdes Davila*, 45 ECAB 139, 142 (1993).

⁴ Appellant was scheduled to undergo a discectomy at C5-6 on October 6, 2000.

⁵ Where appellant claims that a condition not accepted or approved by the Office was due to her employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury. *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

The November 21, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
September 10, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member