

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DARVIN M. STARGELL and U.S. POSTAL SERVICE,
POST OFFICE, Atlanta, GA

*Docket No. 01-2008; Submitted on the Record;
Issued April 18, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
WILLIE T.C. THOMAS

The issue is whether appellant established that he sustained a recurrence of disability on April 19, 2000 causally related to his June 19, 1993 employment injury.

The Board has duly reviewed the case record on appeal and finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability on April 19, 2000, causally related to his June 19, 1993 employment injury.

On June 19, 1993 appellant, then a 35-year-old letter carrier, was involved in an employment-related motor vehicle accident. The Office of Workers' Compensation Programs accepted appellant's claim for cervical and lumbar strains. Appellant received appropriate wage-loss compensation for his accepted injury and he returned to work in a limited-duty capacity on December 7, 1993.¹

On June 19, 2000 appellant filed a notice of recurrence of disability (Form CA-2a) alleging that he sustained a recurrence of disability on April 19, 2000, causally related to his June 19, 1993 employment injury.

After further development of the record, the Office issued a June 28, 2001 decision denying appellant's claim on the basis that he failed to demonstrate that the claimed recurrence of disability was causally related to the accepted injury of June 19, 1993.

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position, or the medical evidence of record establishes that he can perform the light-duty position, the employee has the burden of

¹ By decision dated September 20, 1994, the Office suspended compensation benefits and terminated authorization for further medical treatment based on appellant's refusal to cooperate with an examination as ordered by the Office.

establishing by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he 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.²

In the instant case, appellant has not alleged a change in the nature and extent of his light-duty job requirements and the record does not support such a finding. With respect to a showing of a change in the nature and extent of his employment-related condition, appellant failed to submit any medical evidence demonstrating a causal relationship between his current condition and his June 19, 1993 employment injury. Appellant submitted medical records from the Department of Veterans Affairs covering the period April 20 through June 12, 2000. While the records indicate that appellant was treated for lower back pain, sciatica and a herniated disc at L4-5 with radiculopathy, they do not specifically address the cause of appellant's current condition. Appellant also submitted an August 15, 2000 attending physician's report (Form CA-20) from Dr. Sushma Chandan, who diagnosed left S1 radiculopathy and spinal stenosis. Dr. Chandan's report does not include a history of injury. Furthermore, Dr. Chandan indicated that appellant's condition was not caused or aggravated by an employment activity. Dr. Chandan also completed an August 21, 2000 duty status report (Form CA-17), wherein he noted clinical findings of S1 radiculopathy and spinal stenosis at L4-5. However, he again stated that the diagnosis was not due to injury. As the record is devoid of any medical evidence attributing appellant's current back condition to his accepted employment injury, appellant failed to establish a change in the nature and extent of his accepted employment-related condition.

In light of appellant's failure to establish either a change in the nature and extent of his light-duty assignment or a change in the nature and extent of his accepted employment-related condition, the Office properly denied appellant's claim for recurrence of disability.

² *Mary A. Howard*, 45 ECAB 646 (1994); *Terry R. Hedman*, 38 ECAB 222 (1986).

The June 28, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 18, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member