

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARROL A. BADEAUX and U.S. POSTAL SERVICE,
POST OFFICE, Baton Rouge, LA

*Docket No. 02-643; Submitted on the Record;
Issued December 11, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability due to his employment-related injury.

On July 24, 1990 appellant filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that he fell while delivering mail and injured his shoulder.

On August 9, 1990 appellant underwent shoulder surgery and received total temporary disability until returning to light duty on September 29, 1990 and full duty on December 7, 1990.

In an August 10, 1990 decision, the Office of Workers' Compensation Programs accepted the claim for a fracture of the distal third of the clavicle and fracture of the sternoclavicular joint.

On December 20, 1991 appellant filed a recurrence of disability claim indicating that his shoulder and arm had deteriorated and that he did his work slower since the injury.

In a January 3, 1992 report, Dr. Thad Broussard, a Board-certified orthopedic surgeon, wrote that the weakness in appellant's hands was related to his accepted injury. He also placed appellant on full-time light duty.

In a March 1, 1992 letter, the Office advised appellant that his claim was still open for medical treatment and appropriate medical bills would be paid.

In a July 29, 1994 report, Dr. Steven Zuckerman, a neurologist, diagnosed appellant with unilateral Parkinson disease and indicated it may be traumatically induced and therefore possibly related to the accepted injury.

In an April 1, 1996 decision, the Office awarded appellant a schedule award for five percent impairment of his upper extremity.

Appellant requested a hearing. In a July 27, 1997 decision, the hearing representative affirmed the five percent award.

Appellant requested reconsideration. In a September 1, 2000 decision, the Office denied modification.

On July 2, 2001 appellant filed a recurrence of disability claim alleging extreme pain and slowness in his right arm and hand since January 1, 1992. No additional medical evidence was submitted.

In an August 9, 2001 letter, the Office informed appellant of the information he needed to provide to establish his claim.

Appellant did not respond.

In a September 27, 2001 letter, the Office denied appellant's claim.

The Board finds that appellant has not met his burden of proof to establish a recurrence of total disability.

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 she can perform the light-duty position, the employee has the burden to establish 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 injury-related condition or a change in the nature and extent of the light-duty job requirements.¹

In the present case, appellant failed to submit any rationalized medical evidence establishing that his employment duties changed or that his condition worsened to the point that he could not perform his duties. Dr. Zuckerman's July 29, 1994 report diagnosed Parkinson's disease and indicated that it may be traumatically induced and therefore possibly related to the accepted injury is speculative. This report is speculative in nature and not sufficient to establish appellant's claim of a recurrence of disability.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship² and, therefore, the Office properly denied his claim for compensation.³

¹ *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

² *See Walter D. Morehead*, 31 ECAB 188, 194-95 (1986).

³ By decision dated September 1, 2000, the Office denied modification of its five percent schedule award. This decision is not currently before the Board in that it was issued more than one year prior to the December 26, 2001 date on the letter requesting the present appeal. *See* 20 C.F.R. § 501.3(d)(2).

The September 27, 2001 decision by the Office of Workers' Compensation Programs is hereby affirmed.⁴

Dated, Washington, DC
December 11, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁴ Appellant's primary concern is the failure of the Office to address his leave repayment request. Any questions regarding leave repayment must be directed to the Office. The Board does not have jurisdiction, as there is no final decision on this matter. *See* 20 C.F.R. § 501.2(c).