

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DALE W. SCHNEIDER and DEPARTMENT OF THE AIR FORCE,
SELFRIDGE AIR NATIONAL GUARD BASE, MI

*Docket No. 02-1846; Submitted on the Record;
Issued December 5, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has established that he sustained a recurrence of disability causally related to his February 23, 1990 accepted injury to his right knee.

On February 27, 1990 appellant, then a 51-year-old aircraft mechanic, filed a notice of traumatic injury/claim for continuation of pay/compensation, alleging that on February 23, 1990 he fell on ice moving equipment away from aircraft, thereby sustaining a "partial torn collateral ligament to the right knee." This claim was accepted for a collateral ligament tear of the right knee.

On August 9, 2000 appellant filed a notice of recurrence of disability and claim for continuation of pay/compensation (Form CA-2a), stating, "My right knee has always had pain and discomfort, but not enough to pursue medical attention. However, the pain and discomfort have increased and I would like to seek medical attention at this time." In support thereof, appellant submitted a report of a magnetic resonance imaging (MRI) scan of the right knee, dated November 10, 2000, wherein Dr. A. Munaco, a Board-certified radiologist, noted: (1) considerable tri-compartment arthritic changes with large popliteal cysts seen as containing filling defects; (2) findings consistent with tears of both mensci possibly a buck handle tear with a displaced fragment towards the intercondylar notch on the medial side is difficult to exclude; (3) considerable knee joint effusion; and (4) findings that would suggest a tear to the anterior cruciate ligament. Appellant also submitted progress notes from his treating Board-certified orthopedic surgeon, Dr. Michael E. Tofteland, dated from August 10 to November 21, 2000. In the August 10, 2000 note, Dr. Tofteland indicated that appellant had a recurrence of an old problem in 1991, that he had physical therapy for 12 weeks and that it resolved. In his November 21, 2000 note, he recommended an arthroscopy of the knee. The record also contains a January 9, 2001 letter from Dr. Tofteland, wherein he indicated that the findings in appellant's MRI scan from 1992 showed hypertrophic spurring of the femoral condyles but no evidence of specific meniscus tear, whereas the most recent MRI scan showed a change. Dr. Tofteland indicated that he did not believe that the recent changes evidenced in the recent MRI scan were related to the condition of appellant's knee back in 1990.

By decision dated March 14, 2002, the Office of Workers' Compensation Programs denied appellant's claim for a recurrence, as it found that the evidence failed to demonstrate a causal relationship between the alleged recurrence and the accepted work-related injury of February 23, 1990.

By letter dated May 31, 2002, appellant noted that he had arthroscopic surgery done on his right knee on May 6, 2002 and requested reconsideration. In support thereof, appellant submitted a medical report dated May 9, 2002, wherein Dr. Tofteland indicated that appellant had some residuals from the March 1990 injury as well as an injury that occurred on October 29, 1991 and that, from appellant's history, "[I]t does appear that the damage to the knee was exacerbated by your employment." Appellant also submitted photographs of what the Office stated "appears to be an arthroscopy of the right knee."

By decision dated June 10, 2002, the Office denied modification of its prior decision.

The Board finds that the evidence fails to demonstrate a recurrence of appellant's February 23, 1990 accepted injury.

An employee 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 he claims compensation is causally related to the accepted injury.¹ This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.²

In this case, in a January 9, 2001 letter, Dr. Tofteland indicated that he did not believe that the recent changes in appellant's knee were related to the condition of appellant's knee back in 1990. On reconsideration, appellant submitted a May 9, 2002 report from Dr. Tofteland wherein he stated that appellant still had residuals from the 1990 injury and that, from his history, it appeared that the damage to appellant's knee was exacerbated by his employment. However, Dr. Tofteland did not satisfactorily explain why the change in his opinion from his earlier report where he indicated that he did not believe that the changes in appellant's knee were related to the condition of his knee in 1990. The remaining evidence in the record, including the pictures from appellant's arthroscopy to his right knee, are devoid of any opinion with regard to causal relation. Consequently, appellant has not submitted evidence sufficient to establish a recurrence of disability due to his 1990 accepted collateral ligament tear of the right knee.

¹ *Jose Hernandez*, 47 ECAB 288, 293-94 (1996).

² *Helen K. Holt*, 50 ECAB 279, 282 (1999).

The decisions of the Office of Workers' Compensation Programs dated June 10 and March 14, 2002 are affirmed.

Dated, Washington, DC
December 5, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member