

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA L. CARSON and U.S. POSTAL SERVICE,
POST OFFICE, Cincinnati, OH

*Docket No. 01-1392; Submitted on the Record;
Issued February 1, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability commencing January 18, 2001 causally related to the August 28, 1996 employment injury.

On August 28, 1996 appellant, a 45-year-old supervisor, filed a traumatic injury claim for an injury sustained to her back and left leg when the elevator she was in dropped from the second floor to 12 inches above the first floor. The Office of Workers' Compensation Programs accepted the claim for cervical, thoracic and lumbar strains.

Appellant filed a claim for a recurrence of disability on December 12, 1996 which the Office accepted.

Appellant filed a claim for a recurrence of disability for April 10 through May 5, 1997. The Office rejected her claimed disability for April 10 through 15, 1997, but accepted disability for April 16 through May 5, 1997.

On November 15, 1997 appellant filed her third recurrence claim which the Office denied.

On January 24, 2001 appellant filed a recurrence claim beginning January 18, 2001.¹

In support of her recurrence claim, appellant submitted a February 19, 2001 report by Dr. Andrew M. Roth, an attending Board-certified orthopedic surgeon, a January 29, 2001 letter informing her that her disability retirement had been approved, a duty status report dated April 7, 1998 (Form CA-17), return to work recommendations by the Freiberg Spine center dated December 1, 1997, April 7, 1998 and a January 5 and 19, 2001, and an undated report, a February 19, 2001 cervical discharge report, December 8, 2000 letter from the employing establishment regarding injuries sustained on the malfunctioning elevator.

¹ Appellant filed for disability retirement which was accepted effective February 14, 2001.

Dr. Roth, in his February 19, 2001 report, indicated that appellant “had a recent exacerbation of her pain in January that was so severe it prevented her from being able to work.” He advised appellant to remain off work for two months to receive physical therapy treatment.

The employing establishment contested the recurrence claim and advised the Office that appellant had been detailed to a light-duty position due to factors of her other claim she had filed for stress. The position involved light filing in the personnel office.

By decision dated April 5, 2001, the Office denied appellant’s claim. In support of its denial, the Office found that appellant failed to submit any rationalized medical evidence supporting a causal relationship between her current disability and her accepted August 28, 1996 injury.

The Board finds that appellant has not sustained a recurrence of disability commencing January 18, 2001 causally related to the August 28, 1996 employment injury.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition for which he seeks compensation was causally related to this employment injury.² As part of this burden of proof, appellant must furnish 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.³ An award of compensation may not be made on the basis of surmise, conjecture or speculation, or on appellant’s unsupported belief of causal relation.⁴ The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship between the two.⁵

The record contains no such medical opinion. Indeed, appellant has failed to submit any medical opinion that relates her disability commencing January 18, 2001 to her August 28, 1996 employment injury. For this reason, she has not discharged her burden of proof to establish the claim that she sustained a recurrence of disability as a result of her accepted employment injury.

The only relevant medical evidence submitted by appellant was a medical report from Dr. Roth opining that appellant was totally disabled for two months. As there is no medical evidence addressing and explaining why the claimed condition and disability commencing January 18, 2001 was caused or aggravated by her August 28, 1996 employment injury, appellant has not met her burden of proof in establishing that he sustained a recurrence of disability.

² *Dominic M. DeScala*, 37 ECAB 369 (1986); *Henry L. Kent*, 34 ECAB 361 (1982).

³ *Carmen Gould*, 50 ECAB 504 (1999); *Alfredo Rodriguez*, 47 ECAB 437 (1996).

⁴ *Alfredo Rodriguez*, *supra* note 3.

⁵ *Barbara J. Williams*, 40 ECAB 649 (1989); *James A. Long*, 40 ECAB 538 (1989).

The April 5, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 1, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member