

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RUSSELL E. LAMBERT and U.S. POSTAL SERVICE,
POST OFFICE, Cincinnati, OH

Docket No. 01-1127; Submitted on the Record;
Issued January 2, 2002

DECISION and ORDER

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

The issue is whether appellant has established a recurrence of disability causally related to his January 5, 1996 employment injury.

The Office of Workers' Compensation Programs accepted that appellant sustained disc herniations at L4-5 and L5-S1 causally related to an employment incident on January 5, 1996. Appellant underwent lumbar surgery on March 25, 1996 and returned to work in April 1996.

On February 8, 2000 appellant filed a notice of recurrence of disability. He did not indicate a specific date of recurrence of disability; appellant stated that his condition progressively worsened. By decision dated April 5, 2000, the Office denied the claim. In a decision dated January 31, 2001, an Office hearing representative affirmed the prior decision.

The Board finds that appellant has not established a recurrence of disability as of February 8, 2000.

A person 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. 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 disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.¹

In the present case, appellant did not submit any probative medical evidence establishing a period of disability causally related to the January 5, 1996 employment injury. In a treatment note dated February 10, 2000, Dr. Bret Ferree, an orthopedic surgeon, noted that appellant had

¹ *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

increased back pain recently. He did not provide an opinion on causal relationship between a diagnosed disabling condition and the accepted employment injury. In notes dated June 27 and September 19, 2000, Dr. Ferree noted low back pain, without discussing the relevant issues. Appellant did not submit any medical report containing an accurate factual and medical background, with a reasoned medical opinion establishing a specific condition or period of disability for work as causally related to the employment injury. It is appellant's burden of proof to submit such evidence and the Board finds he has failed to meet his burden in this case.

The decision of the Office of Workers' Compensation Programs dated January 31, 2001 is affirmed.

Dated, Washington, DC
January 2, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member