

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of WILLIAM H. LEE and DEPARTMENT OF THE NAVY,  
NAVAL SHIPYARD, Portsmouth, NH

*Docket No. 01-1258; Submitted on the Record;  
Issued January 7, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant established a recurrence of disability commencing March 13, 2000, causally related to his 1995 employment injury.

The Board has duly reviewed the case record and finds that appellant failed to meet his burden of proof to establish a recurrence of disability.

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 his employment injury.<sup>1</sup> This burden includes the necessity of furnishing 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.<sup>2</sup>

The Office of Workers' Compensation Programs accepted appellant's claim for an anterior tibial muscle strain in the left leg, chondromalacia of the left patella and an aggravation of osteoarthritis of the left knee. On June 5, 2000 appellant, then a 46-year-old insulator, filed a recurrence of disability claim, stating that, after the January 31, 1995 employment injury, he returned to work without restrictions but his knee continued to bother him and he had good days and bad days. Appellant stated that, when the pain in his knee "got bad," he saw his doctor and obtained a prescription for pain and swelling but there were times he had to take time off and rest.

In this case, appellant did not present any evidence containing a rationalized medical opinion addressing how his knee symptoms were related to the January 31, 1995 employment injury. The medical evidence appellant submitted from 1995, consisting of progress notes and

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<sup>1</sup> *Dominic M. DeScala*, 37 ECAB 369 (1986).

<sup>2</sup> *Louise G. Malloy*, 45 ECAB 613, 617 (1994).

physical therapy notes, is not relevant to whether a recurrence of disability occurred on March 13, 2000.

Appellant also submitted medical reports from his treating physician, Dr. Eric Arvidson. In his June 2, 2000 report, Dr. Arvidson stated that appellant had a new onset of increased left knee pain. He stated that appellant had “intermittent problems in the knee, which reported[ly] go back to 1995 when he apparently fell onto his knee while on a steel deck.” Dr. Arvidson stated that about four years ago, appellant noticed increased intermittent pain on the lateral aspect of the knee, which had worsened. He provided no explanation, however, of how appellant’s knee symptoms were work related or whether appellant sustained a recurrence of disability on March 13, 2000.

Similarly, in his July 28 and October 30, 2000 reports, Dr. Arvidson made no reference to appellant’s employment. His reports are therefore not probative.<sup>3</sup> No other medical evidence of record addresses whether appellant’s knee symptoms were work related or whether appellant sustained a recurrence of disability on March 13, 2000. The Office provided appellant with an opportunity to submit the evidence necessary to establish his claim, but appellant did not comply. He has thus failed to establish that he sustained a recurrence of disability.

The November 27, 2000 decision of the Office of Workers’ Compensation Programs is hereby affirmed.

Dated, Washington, DC  
January 7, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Priscilla Anne Schwab  
Alternate Member

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<sup>3</sup> See *Ronald C. Hand*, 49 ECAB 113, 118 (1997).