

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SAMUEL E. TALIAFERRO and DEPARTMENT OF AIR FORCE,  
TACTICAL AIR COMMAND, LANGLEY AIR FORCE BASE, VA

*Docket No. 00-1222; Submitted on the Record;  
Issued March 14, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,  
WILLIE T.C. THOMAS

The issue is whether appellant established that he sustained a recurrence of disability on or after February 1, 1997 that was causally related to his April 5, 1982 work injury.

On April 5, 1982 appellant, then a 42-year-old boiler plant operator, was injured in the performance of duty when a chemical drum valve broke and his leg was burned by a spray of chemicals. The Office of Workers' Compensation Programs accepted the traumatic injury claim for a first-degree burn of the left leg and the subsequent development of a conversion disorder due to the work incident. Appellant received continuation of pay for intermittent periods of wage loss from April 6 through August 19, 1982. He returned to work but sustained a recurrence of disability due to his work injury from October 23 to November 19, 1991.

On February 19, 1997 appellant filed a CA-7 claim for continuing compensation alleging that on February 1, 1997 he had to stop work due to the April 5, 1982 work injury.

In support of his claim, appellant submitted a March 12, 1997 report from his attending physician, Dr. Daniel E. Fischer, a Board-certified psychiatrist, who discussed the history of injury and appellant's subsequent medical treatment including hospitalization in 1991 at a psychiatric unit. Dr. Fischer noted that appellant had continued to complain over the years of pain and burning sensations in his leg and experienced intermittent feelings of depression and anxiety. He stated, "Due to recent work conditions, [appellant's] psychiatric condition worsened and I recommended that he be placed on total disability status."

In an attending physician's report dated March 14, 1997,<sup>1</sup> Dr. Fischer listed the date of injury as April 5, 1982 and the history of injury as "chemical burn on his leg." The diagnosis

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<sup>1</sup> He also submitted a copy of a July 13, 1992 statement, wherein he alleged that he had been discriminated against and harassed by his supervisor due to his work injury. Appellant noted that he had lost a substantial amount of sick and annual leave.

provided was conversion reaction and psychophysiological musculolskeletal reaction. The period of total disability was listed as February 1, 1997 to “present.”

In a report dated January 31, 1997, Dr. Colette Moussalli, an internist, noted that appellant suffered from Type II diabetes and recommended that he work a daytime shift only to maintain a more regular schedule and normal sugar control.

In a February 23, 1997 report, Dr. James C. Sutherland, a rheumatologist, advised that he was treating appellant for fibromyalgia and seronegative rheumatoid arthritis. He noted that “objectively [appellant] has had swelling in his joints on occasion” complicated by diabetes. Dr. Sutherland concluded that the prognosis was indeterminate, noting that he did not expect appellant to fully recover from his diagnosed illnesses.

In an April 9, 1997 letter, the Office notified appellant that he needed to complete a CA-2a claim form if he was alleging a recurrence of disability. The Office further explained the nature of the factual and medical evidence required to establish a recurrence of disability.

On April 21, 1997 appellant filed a claim for a recurrence of disability beginning February 1, 1997. He noted on the CA-2a claim form that on January 30, 1997 he met at 8:30 a.m. with an individual to discuss the possibility of a reduction-in-force and the possibility of appellant’s early retirement. Appellant described himself as very confused and hurt with no understanding of his rights or benefits after 23 years of service. He stated that he saw his treating physician the next day on January 31, 1997 and was placed on disability.

In a decision dated May 13, 1997, the Office denied compensation on the grounds that the medical evidence was insufficient to establish that appellant sustained a recurrence of disability on or after February 1, 1997 that was causally related to his previous work injury.

By letter dated “May 10, 1997,” which was date-stamped as received by the Office on May 13, 1998, appellant requested an oral hearing.

In a July 2, 1998 decision, the Office denied appellant’s hearing request as untimely filed. The Office further noted that the issue in the case could be equally well addressed through the reconsideration process.

On July 27, 1998 appellant requested reconsideration. He later submitted an October 8, 1998 report by Dr. Fischer which stated:

“It appears mind-boggling to me that after 16 years with this condition you are still asking for proof that it is work related. I am going to enclose a copy of the Diagnostic and Statistical Manual 4<sup>th</sup> edition (DSM-IV) which contains a descriptive narrative of [c]onversion [d]isorder.”

He further noted that appellant continued to be seen for psychological counseling and medical management of his Xanax for conversion disorder.

In a December 20, 1999 decision, the Office denied modification of its prior decision.

The Board finds that appellant failed to establish that he sustained a recurrence of disability on or after February 1, 1997 causally related to his April 5, 1982 work injury.

An individual 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 compensation is claimed is causally related to the accepted injury.<sup>2</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 the employment injury and supports that conclusion with sound medical reasoning.<sup>3</sup> 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.<sup>4</sup>

In this case, appellant has failed to carry his burden of proof. Although the Office has accepted that appellant has a conversion disorder related to his chemical burn at work on April 5, 1982, there is no reasoned medical evidence to causally relate appellant's disability on or after February 1, 1997 to his accepted work injury. First, the Board notes that appellant's application for a recurrence describes a January 30, 1997 meeting as having upset appellant such that he sought medical treatment the following day and was placed on disability. The January 30, 1997 meeting is not a recurrence of disability under the circumstances described and would constitute a new incident of emotional injury.

Although Dr. Fischer listed on the attending physician's report that appellant was disabled beginning February 1, 1997 due to the April 5, 1982 work injury, he did not provide any rationale for his diagnosis. Moreover, he specifically stated in his March 12, 1997 report that appellant's disability was due to recent "work conditions." This does not support appellant's contention that he sustained a recurrence of disability causally related to his prior work injury.

Finally, the Board notes that the remaining medical opinions do not address the issue of causal relationship between appellant's disability and his conversion disorder. Dr. Sutherland indicates only that appellant suffers from an arthritic condition and Dr. Moussalli reports that appellant's Type II diabetes should be accommodated at work by giving him a more regular schedule. Neither of these conditions were accepted by the Office as work related and they are not attributed to appellant's April 5, 1982 work injury.

Because appellant has failed to submit reasoned medical evidence to establish that he sustained a recurrence of disability due to his April 5, 1982 work injury, the Office properly denied compensation.

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<sup>2</sup> *Dominic M. DeScala*, 37 ECAB 369 (1986); *Bobby Melton*, 33 ECAB 1305 (1982).

<sup>3</sup> *See Nicolea Brusco*, 33 ECAB 1138 (1982).

<sup>4</sup> *Ausberto Guzman*, 25 ECAB 362 (1974).

The decision of the Office of Workers' Compensation Programs dated December 20, 1999 is hereby affirmed.

Dated, Washington, DC  
March 14, 2002

Alec J. Koromilas  
Member

Colleen Duffy Kiko  
Member

Willie T.C. Thomas  
Alternate Member