

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID BLEVINS and U.S. POSTAL SERVICE,
POST OFFICE, Johnson City, TN

*Docket No. 02-184; Submitted on the Record;
Issued May 22, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability causally related to an accepted December 24, 1998 employment injury.

On January 5, 1999 appellant, then a 52-year-old postal clerk, filed a notice of traumatic injury alleging that on December 24, 1998 he slipped and fell on a greasy floor and injured his neck and back. The emergency room record indicated that appellant "fell and injured back and head, slipped on greasy spot on floor at work and fell. Popped neck and shoulder. Getting sore all over. Skin tear to left forearm, hit left side of head." He was diagnosed with musculoskeletal pain. Appellant returned to light-duty work for one week. Dr. Michael N. Dube indicated that appellant could not lift more than 10 pounds.

On July 26, 1999 appellant filed a claim for recurrence beginning May 14, 1999, stating that his left shoulder and upper arm were stiff and sore and that he could not lift his left arm above his head. He stated: "I was never better after fall. I thought it would work itself out after a period of time. Still have soreness -- sharp pains in left arm and shoulder if raised too high or pick up heavy articles." Appellant was taken to the hospital due to lightheadedness and pain in the chest and numbness and tingling in the left arm and hand.

Appellant submitted a July 8, 1999 report from Dr. Paul W. Gorman, a Board-certified orthopedic surgeon, diagnosing him with left shoulder rotator cuff tendinitis. Dr. Gorman stated:

"This is a 52-year-old male, who injured his left shoulder on December 24, 1998 when he slipped on a wet spot at work and landed on his left shoulder. This occurred at the [employing establishment]. [Appellant] hit the left side of his neck and shoulder. He has continued to have pain, which has not gotten any better. [Appellant] complains of a catching sensation, popping and pain with flexion and abduction."

Dr. Robert J. DeTroye, a Board-certified orthopedic surgeon, also diagnosed appellant with left shoulder rotator cuff tendinitis on September 2, 1999. Appellant underwent arthroscopic surgery for a left rotator cuff tear and returned to work on January 24, 2000 with restrictions of no above-shoulder lifting and no lifting over 20 pounds.

By decision dated November 18, 1999, appellant's claim for recurrence was denied. He requested reconsideration in an undated letter received by the Office of Workers' Compensation Programs on June 19, 2000.

By decision dated August 11, 2000, the Office accepted appellant's claim for cervical strain, lumbar strain, left forearm abrasion and left shoulder tendinitis.¹

The Board finds that appellant has not established that he sustained a recurrence of disability.

When an employee, who is disabled from the job he or she held when injured on the account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence, a recurrence of total disability and to show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.²

In this case appellant's claim was accepted for cervical strain, lumbar strain, left forearm abrasion and left shoulder tendinitis. In his notice of recurrence of disability, Form CA-2a, appellant stated that his left shoulder and upper arm were still sore and that he was unable to raise his arm above his head. On July 8, 1999 appellant was diagnosed with left shoulder rotator cuff tendinitis and underwent surgery for a rotator cuff tear on January 10, 2000. It is his burden of proof to show that the accepted condition of left shoulder tendinitis changed or developed into the rotator cuff tear by submitting rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale.³

The Board finds that there is insufficient medical evidence in this case to show that appellant's left shoulder tendinitis developed into a rotator cuff tear which eventually required rotator cuff surgery. He submitted medical reports from Drs. Gorman and DeTroye diagnosing him with rotator cuff tendinitis, yet neither doctor provided a rationalized narrative report explaining the causal relationship between the accepted tendinitis and the rotator cuff tear. Appellant also submitted a treatment note from Dr. Irshad Ahmad, Board-certified in preventive medicine, indicating that he was treated with a left shoulder injection on January 19, 1999. Dr. Ahmad also did not submit a narrative report describing appellant's condition and relating it

¹ The Office explained in a second August 11, 2000 decision that appellant's claim had been updated to include left shoulder tendinitis but was denied for any other diagnoses or for payment of any time off work.

² *Fallon Bush*, 48 ECAB 594 (1997).

³ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990).

to the original injury. It is appellant's burden to submit a rationalized medical opinion report showing that his injury-related condition had changed.⁴ The record does not contain a rationalized medical opinion report finding that the accepted tendinitis developed into a rotator cuff tear.

The Board also finds that appellant has not shown a change in the nature and extent of his light-duty job requirements. After his December 24, 1998 injury, appellant returned to light-duty work for one week before he filed his claim for recurrence. His only work restriction was no lifting over 10 pounds. There is no evidence in the record that appellant's light-duty requirements changed in that week or that he was required to lift anything over 10 pounds. He did not submit any evidence describing his duties during that time. Since appellant did not submit evidence showing that his job duties had changed, the Board assumes that appellant's light-duty job requirements remained the same.

As appellant did not establish a change in the nature or extent of his condition or a change in his limited-job duties, he did not meet his burden of proof in this case.

The August 11, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 22, 2002

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ *Supra* note 2.