

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANET LAFAYE KNIGHT and U.S. POSTAL SERVICE,
POST OFFICE, Philadelphia, PA

Docket No. 02-221; Submitted on the Record;
Issued May 28, 2002

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of disability on or after October 3, 1997 due to her February 5, 1997 employment 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.¹ 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 rationale.² Where no such rationale is present, medical evidence is of diminished probative value.³

The Board finds that appellant did not meet her burden of proof to establish that she sustained a recurrence of disability on or after October 3, 1997 due to her February 5, 1997 employment injury.

On February 5, 1997 appellant, then a 35-year-old mail processor, sustained an employment-related lumbar sprain. She was released to full duty on May 28, 1997 and then returned to limited-duty work on October 3, 1997. Appellant alleged that she sustained a recurrence of disability on October 3, 1997 due to her February 5, 1997 employment injury. By decision dated February 13, 1998, the Office denied appellant's claim on the grounds that appellant did not submit sufficient medical evidence to establish that she sustained a recurrence

¹ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

² *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

³ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

of disability on or after October 3, 1997 due to her February 5, 1997 employment injury. An oral hearing was requested by appellant's attorney, which was later amended to a review of the record. By decision dated October 10, 2001 and finalized October 24, 2001, the hearing representative affirmed the Office decision.

The Board finds that appellant did not submit sufficient medical evidence to establish that she sustained a recurrence of disability on or after October 3, 1997 due to her February 5, 1997 employment injury. Appellant submitted a November 20, 1997 report in which Dr. Giancarlo Barolat, an attending Board-certified neurosurgeon, indicated that she had degenerative disc disease of her low back. This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain an opinion on causal relationship.⁴ Appellant's claim has only been accepted for lumbar sprain; the record does not contain any evidence showing that the degenerative disc disease of her low back is related to her February 5, 1997 employment injury.⁵ Appellant also submitted other medical evidence which discussed her back condition, including numerous reports of Dr. Clement Au, an attending Board-certified family practitioner. However, these reports do not contain any indication that appellant's continuing problems were due to her February 5, 1997 employment injury.⁶

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.⁷ Appellant failed to submit rationalized medical evidence establishing that her claimed recurrence of disability is causally related to the accepted employment injury and, therefore, the Office properly denied her claim for compensation.

⁴ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

⁵ Diagnostic testing from February 1997 shows that appellant had preexisting degenerative disc disease. Although testing from September 1997 shows that her low back condition had worsened, there is no evidence of record showing that such worsening was due to her employment injury.

⁶ The record contains two reports in which attending Board-certified orthopedic surgeons recommended work restrictions -- an August 3, 1998 report of Dr. Kevin A. Mansmann and a September 29, 2000 report of Dr. John P. Salvo. Neither physician indicated that these restrictions were required by an employment-related condition.

⁷ See *Walter D. Morehead*, 31 ECAB 188, 194-95 (1986).

The decision of the Office of Workers' Compensation Programs dated October 10, 2001 and finalized October 24, 2001 is affirmed.

Dated, Washington, DC
May 28, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member