

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHELE A. SHERRILL and U.S. POSTAL SERVICE,
POST OFFICE, Jacksonville, FL

*Docket No. 03-703; Submitted on the Record;
Issued June 16, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained a recurrence of disability on October 6, 2001 causally related to her March 14, 1996 employment injury.

On March 14, 1996 appellant, then a 38-year-old rural route carrier, filed a claim for a traumatic injury to her lower back occurring on that date in the performance of duty. Appellant did not stop work. The Office of Workers' Compensation Programs accepted appellant's claim for lumbar strain.

On November 5, 2001 appellant filed a notice of recurrence of disability on October 6, 2001 causally related to her March 14, 1996 employment injury. Appellant related that she was "cleaning [the] bathtub at home. When I stood up pain shot down [my] left leg immediately ... pain is in same area and intensity as [the] original injury."

By decision dated December 27, 2001, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that she sustained a recurrence of disability causally related to her employment.

On May 6, 2002 appellant requested a hearing on her claim.¹ Following an October 31, 2002 hearing, the hearing representative in a decision dated January 6, 2003, affirmed the Office's December 27, 2001 decision.

The Board finds that appellant has not established that she sustained a recurrence of disability on October 6, 2001 causally related to her March 14, 1996 employment injury.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, she has the burden of establishing by the weight of the substantial, reliable and probative

¹ Appellant noted that she had previously requested a hearing in a letter dated January 14, 2002, but had not received notification of the date and time of the hearing from the Office.

evidence that the subsequent disability, for which she claims compensation is causally related to the accepted injury.² This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.³

Furthermore, it is an accepted principle of workers' compensation law and the Board has so recognized that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause, which is attributable to the employee's own intentional conduct.⁴

In discussing how far the range of compensable consequences is carried, once the primary injury is causally connected with the employment, Professor Larson notes:

“[W]hen the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury, the rules that come into play are essentially based upon the concepts of ‘direct and natural results’ and of claimant’s own conduct as an independent intervening cause. The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.”⁵

Thus, it is accepted that once the work-connected character of any condition is established, “the subsequent progression of that condition remains compensable *so long as the worsening is not shown to have been produced by an independent nonindustrial cause.*”⁶ (Emphasis added.) If a member weakened by an employment injury, contributes to a later fall or other injury, the subsequent injury will be compensable as a consequential injury, if the further medical complication flows from the compensable injury, *i.e.*, “so long as it is clear that the real operative factor is the progression of the compensable injury, with an exertion that in itself would not be unreasonable in the circumstances.”⁷

In this case, the Office accepted that appellant sustained a lumbar strain as a result of a March 14, 1996 employment injury. On October 6, 2001 appellant related that she experienced pain in the same part of her back as in her employment injury when she stood up after cleaning the bathtub in her home. The issue, therefore, is whether appellant’s disability beginning October 6, 2001 is compensable as the “direct and natural” result of her March 14, 1996

² *Robert H. St. Onge*, 43 ECAB 1169 (1992).

³ *Id.*

⁴ *Robert W. Meeson*, 44 ECAB 834 (1993).

⁵ Larson, *The Law of Workers' Compensation* § 13.11.

⁶ *Id.* § 13.11(a); see also *Melissa M. Fredrickson*, 50 ECAB 170 (1998).

⁷ *Kevin J. McGrath*, 42 ECAB 109 (1990).

employment injury. Appellant has not submitted any medical evidence, which explains with medical rationale how the October 6, 2001 injury while cleaning her bathtub was a natural progression of the employment injury. In support of her claim, appellant submitted medical reports dated October 25 and November 6, 2001 from Dr. Ellen C. Sackett, a Board-certified family practitioner, who diagnosed a possible herniated nucleus pulposus. However, as she did not address the cause of appellant's condition, her reports are of little probative value.⁸

In a disability certificate dated November 28, 2001, Dr. Sackett diagnosed a herniated disc at L5-S1 and stated, "I feel that this is a reinjury of her 1996 disc herniation."⁹ Dr. Sackett, however, provided no rationale in support of her conclusion.¹⁰ Without any explanation of rationale, a medical report has diminished probative value and is insufficient to establish causal relationship.¹¹ Further, Dr. Sackett did not discuss appellant's possible intervening injury while cleaning her bathtub at home in October 2001. Therefore, Dr. Sackett's report does not establish that appellant sustained a recurrence of disability or any medical condition after October 6, 2001 causally related to her accepted employment injury.

In a duty status report dated November 28, 2001, Dr. Sackett diagnosed a herniated nucleus pulposus and checked "yes" that the history of injury corresponded to that provided on the form of appellant feeling a sharp pain in her back after she lost her footing cleaning the bathtub. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish a claim.¹² Additionally, Dr. Sackett attributed appellant's condition to her injury at home cleaning her bathtub rather than her previous employment injury.

As appellant has not submitted any rationalized medical evidence to establish that she sustained a recurrence of disability causally related to her accepted employment injury, the Office properly denied her claim.

⁸ *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

⁹ A magnetic resonance imaging study (MRI) scan obtained on November 23, 2001 revealed a large central herniated nucleus pulposus at L5-S1. A previous MRI scan obtained on April 23, 1996 showed a central annular tear at L5-S1 and a small disc protrusion.

¹⁰ *Jacquelyn L. Oliver*, 48 ECAB 232 (1996) (medical conclusions unsupported by rationale are of diminished probative value).

¹¹ *Debra S. King*, 44 ECAB 203 (1992).

¹² *Calvin E. King*, 51 ECAB 394 (2000).

The decision of the Office of Workers' Compensation Programs dated January 6, 2003 is hereby affirmed.

Dated, Washington, DC
June 16, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member