

**United States Department of Labor
Employees' Compensation Appeals Board**

TYRONE WILLIAMS, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Bethesda, MD, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 05-1723
Issued: November 18, 2005**

Appearances:
Tyrone Williams, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On August 16, 2005 appellant filed a timely appeal of a May 10, 2005 decision of the Office of Workers' Compensation Programs, denying his claim for a recurrence of disability as of November 20, 2004. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established a recurrence of disability commencing November 20, 2004 causally related to his employment injury.

FACTUAL HISTORY

On February 2, 2002 appellant, then a 46-year-old-letter carrier, filed a traumatic injury claim (Form CA-1) alleging that he sustained a back injury in the performance of duty on February 1, 2002 when he slipped on wet steps. In a report dated March 29, 2002, Dr. James Weiss, an orthopedic surgeon, reported that appellant had continued to work but then had a death

in the family and had not worked for three weeks. He indicated that appellant could return to light duty.

In a report dated April 30, 2002, Dr. Weiss noted that a few days prior, appellant had a dog chase him while delivering mail. He jumped into his truck slightly spraining his lumbar spine again. Dr. Weiss diagnosed a reaggravation of a lumbar sprain and left tibia contusion. By letter dated May 29, 2002, the Office advised appellant that the April 30, 2002 report described a new incident, and a new claim should be filed. Appellant continued to work light duty.¹

In a letter dated July 29, 2004, appellant stated that his supervisors had refused his request for medical treatment for an employment injury. By letter dated November 29, 2004, the Office advised appellant that it had accepted his claim for lumbosacral sprain/strain. Appellant was advised to submit a claim for compensation for wage loss on a Form CA-7.

On January 31, 2005 appellant filed a notice of recurrence (Form CA-2a) alleging that as of November 20, 2004 he was working four hours per day. Appellant stated that one hour had been taken off his route since February 1, 2002, and he was still obtaining medical treatment for the February 1, 2002 injury. In a report dated November 5, 2004, Dr. Weiss provided results on examination, noting that appellant reported his back bothered him when he had to carry mail. Dr. Weiss advised appellant to restrict twisting. Appellant also submitted a CA-20 attending physician's report from Dr. Weiss dated on or about December 27, 2004. Dr. Weiss diagnosed lumbar disc, checked a box "yes" that the condition was employment related and reported that appellant was partially disabled from February 1, 2002 to November 5, 2004.

By decision dated May 10, 2005, the Office denied the claim for a recurrence of disability commencing November 20, 2004.

LEGAL PRECEDENT

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

A recurrence of disability is defined under the Office's implementing federal regulations as the inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.³

¹ Appellant stated on appeal that his route was reduced by one hour.

² *Terry R. Hedman*, 38 ECAB 222 (1986).

³ 20 C.F.R. § 10.5(x).

ANALYSIS

Appellant indicated that his job had been modified since his February 1, 2002 injury. He filed a notice of recurrence of disability for four hours commencing November 20, 2004. It is his burden of proof to show a change in the light-duty job or a change in his employment-related condition as of November 20, 2004 that resulted in his inability to work eight hours per day. The Board also notes that, to the extent that appellant is claiming that an incident at work in April 2002 aggravated his back condition, this would be a claim for a new injury since a new employment incident was alleged.⁴

The record in this case does not contain probative evidence with respect to an employment-related condition on November 20, 2004. Dr. Weiss did not submit a report with a reasoned medical opinion, based on a complete factual or medical background, as to an employment-related partial disability commencing November 20, 2004. Appellant submitted an attending physician's report from Dr. Weiss that is somewhat illegible. Dr. Weiss did not discuss appellant's condition as of November 20, 2004. The form report checks a box "yes" on causal relationship, which is of little probative value without additional explanation or rationale.⁵ The form report provides a period of partial disability from February 1, 2002 to November 5, 2004, without discussing the relevant issue of causal relationship.

The Board finds that appellant did not establish a change in a light-duty job or a change in an employment-related condition as of November 20, 2004. He did not meet his burden of proof and therefore the Office properly denied his claim.

CONCLUSION

The Board finds that appellant did not establish a recurrence of disability commencing November 20, 2004.

⁴ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b)(2) (May 1997).

⁵ See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 10, 2005 is affirmed.

Issued: November 18, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board