

between early and mid 2004, in which an attending physician diagnosed cellulitis of the right arm.

The Office accepted that appellant sustained employment-related “cellulitis/abscess” of the right arm. He stopped work on February 3, 2004 and returned to limited-duty work on February 8, 2004. Appellant returned to his regular work for the employing establishment by March 2, 2004.¹

On July 13, 2005 appellant filed a claim alleging that he sustained a recurrence of disability due to his January 31, 2004 employment injury. It does not appear that appellant stopped work at this time.²

By letter dated September 27, 2005, the Office requested that appellant submit additional evidence in support of his claim, including a complete narrative report from a physician which described his claimed condition. The Office provided appellant 30 days to provide additional evidence but he did not do so within the allotted time.

By decision dated November 9, 2005, the Office denied appellant’s claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained a recurrence of disability due to his accepted employment injury.

LEGAL PRECEDENT

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.³ 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.⁴ Where no such rationale is present, medical evidence is of diminished probative value.⁵

ANALYSIS

The Office accepted that appellant sustained “cellulitis/abscess” of the right arm due to a January 31, 2004 employment injury. On July 13, 2005 he filed a claim alleging that he sustained a recurrence of disability due to his January 31, 2004 employment injury.

¹ The record contains a document which indicates that appellant’s case (File No. 162070843) was closed on March 11, 2004.

² On the claim form, appellant stated, “I have performed my duties with no limitations and I have not received any medical treatment. Claim was closed because medical reports were not submitted within 180 days.”

³ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

⁴ *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁵ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

The Board finds that appellant did not submit sufficient medical evidence to establish that he sustained a recurrence of disability due to his accepted employment injury. He did not submit any medical evidence in support of his claim that he sustained a recurrence of disability due to his January 31, 2004 employment injury. Prior to denying his claim on November 9, 2005, the Office provided appellant with an opportunity to submit additional evidence in support of his claim, but the record does not contain any indication that he submitted such evidence.

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 his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁶ Appellant failed to submit any rationalized medical evidence establishing that his claimed recurrence of disability is causally related to the accepted January 31, 2004 employment injury. Therefore, the Office properly denied his claim for compensation.⁷

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a recurrence of disability due to his January 31, 2004 employment injury.

⁶ See *Walter D. Morehead*, 31 ECAB 188, 194-95 (1986).

⁷ Appellant submitted additional evidence in connection with his appeal to the Board, but the Board cannot consider such evidence for the first time on appeal. See 20 C.F.R. § 501.2(c). In connection with his claim for recurrence of disability, appellant suggested that he did not receive adequate compensation for medical treatment required by his January 31, 2004 employment injury. The record does not contain a final decision of the Office regarding appellant's entitlement to medical benefits and the matter is not currently before the Board. See *id.*

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' November 9, 2005 decision is affirmed.

Issued: April 5, 2006
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