

for back contusion and blunt trauma and she received appropriate compensation benefits. The Office subsequently expanded her claim to include cervical sprain and cervical and lumbar radiculopathy. Appellant returned to limited-duty work, for four hours daily, on May 17, 2003. She filed several claims for recurrences of disability. The Office accepted appellant's claims for recurrences of disability on May 28, June 26, July 25 and August 22, 2003.

In a January 15, 2004 disability certificate, Dr. Michael A. Tugetman, Board-certified in family medicine, advised that appellant was able to return to full duty. The employing establishment confirmed that she returned to full duty on January 15, 2004.

Appellant subsequently filed several notices of recurrence alleging recurrences of disability on July 9, August 27, September 24, October 20, November 2 and December 16, 2004, and on August 4 and September 17, 2005, which were accepted by the Office.

On November 3, 2005 appellant filed a notice alleging a recurrence of disability on October 29, 2005. She noted that she could not get out of bed and that she had a pinched nerve, a slipped disc and recurring back pain. Appellant indicated that she was on light duty and had returned to full duty. The employing establishment indicated it "had no knowledge of recurrence." Appellant returned to work on November 3, 2005.

In a November 2, 2005 report, Dr. Sami Nathan, Board-certified in family medicine, advised that appellant had a work-related injury to her lower back with recurrent back pain and that she could return to full duty on November 3, 2005. In a November 2, 2005 disability certificate, Dr. Nathan diagnosed a "lower back strain (recurrent)" and noted that appellant was ill from October 29, 2005. He advised that appellant was able to return to full duties on November 3, 2005.

The Office received a check list from appellant dated November 3, 2005. She alleged that, on October 29, 2005 at approximately 5 a.m., she was unable to walk due to back pain. Appellant also alleged that, since she had returned to work, she often experienced recurring back pain.

In a letter dated November 9, 2005, the Office requested additional factual and medical evidence from appellant and the employing establishment.

On December 14, 2005 the Office received a statement from appellant of the same date. She indicated that, when she woke up to get ready for work, she had lower back pain.

In a letter dated December 14, 2005, the employing establishment alleged that appellant was using her "injury as a way of not having administrative action being taken against her for her unscheduled absences."

On December 14, 2005 appellant filed a recurrence of disability claim on December 9, 2005. She alleged that she could not get out of bed until she took medication and that she had recurrent back pain. Appellant stated that she had a pinched nerve and a slipped disc. She returned to work on December 14, 2005.

In a December 13, 2005 disability certificate, Dr. Nathan diagnosed recurrent back pain and advised that appellant was ill from December 9 to 13, 2005. He indicated that appellant was able to return to full duties on December 14, 2005.

In a December 16, 2005 decision, the Office denied appellant's claim for a recurrence of disability on October 29, 2005. It noted that her claim was not accepted for a lumbar sprain and found that the medical evidence was insufficient to establish a recurrence of disability on October 29, 2005 causally related to the April 27, 2002 employment injury.

In a December 13, 2005 report, Dr. Ishrat Khan, a Board-certified physiatrist, noted that appellant related that she had recurrent lower back pain and was unable to work. He diagnosed chronic cervical and lumbar spine sprain/strain and advised that appellant continue a home exercise program and recommended further orthopedic evaluation.

In a letter dated January 3, 2006, the Office requested additional factual and medical evidence from appellant and the employing establishment.

On February 7, 2006 the Office received a copy of Dr. Nathan's November 2, 2005 report. It also received a copy of an August 4, 2005 report in which Dr. J.M. Abraham, a Board-certified pediatrician, diagnosed neck sprain and low back derangement.

By decision dated February 21, 2006, the Office denied appellant's claim for a recurrence of disability on December 9, 2005. It found that the medical evidence was insufficient to establish a recurrence of disability on December 9, 2005 causally related to the April 27, 2002 employment injury.

LEGAL PRECEDENT

Section 10.5(x) of the Office's regulations provides that a recurrence of disability means an 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.¹

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires 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 who supports that conclusion with sound medical reasoning.²

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

¹ 20 C.F.R. § 10.5(x); see *Theresa L. Andrews*, 55 ECAB ____ (Docket No. 04-887, issued September 27, 2004).

² *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.104.

employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.³

ANALYSIS

The Office accepted that appellant sustained a back contusion, blunt trauma, cervical sprain and cervical and lumbar radiculopathy in the performance of duty on April 27, 2002. Appellant filed notices for a recurrence of disability on October 29 and December 9, 2005. By letters dated November 9, 2005 and January 3, 2006, the Office advised her of the evidence needed to establish her claim. However, she did not submit sufficient medical evidence to establish that her present condition was causally related to her accepted injury. For example, she did not submit a medical report in which her treating physician explained why her disability beginning October 29 or December 9, 2005 was caused or contributed to by her accepted injury.

Regarding appellant's claim for a recurrence of disability on October 29, 2005, appellant submitted two reports from Dr. Nathan dated November 2, 2005. Dr. Nathan diagnosed a lower back strain (recurrent) and noted that appellant was ill from October 29, 2005 and that she could return to full duties on November 3, 2005. In a November 2, 2005 report, he advised that appellant had recurrent lower back pain, which was work related and advised that appellant could return to full duty on November 3, 2005. As noted, appellant's claim was accepted for a back contusion, blunt trauma, cervical sprain and cervical and lumbar radiculopathy. Dr. Nathan did not identify appellant's disability as due to the accepted conditions; rather he only noted her complaint of low back pain. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.⁴ While Dr. Nathan addressed a period of disability, his reports are of limited probative value as he did not explain how appellant's low back condition was causally related to the April 27, 2002 employment injury.

In support of her claim for a recurrence of disability on December 9, 2005, appellant submitted a December 13, 2005 disability certificate in which Dr. Nathan diagnosed recurrent low back pain and noted that appellant was ill from December 9 to 13, 2005. Dr. Nathan opined that appellant was able to return to full duties on December 14, 2005. As noted, however, he did not address the accepted injury or explain how it caused or contributed to this period of disability. Causal relationship must be substantiated by reasoned medical opinion evidence.⁵

In a December 13, 2005 report, Dr. Khan diagnosed chronic cervical and lumbar spine sprain strain. However, his report did not address whether the diagnosed conditions were caused or contributed to by the April 27, 2002 employment injury. Thus, Dr. Khan's report is of limited probative value.

³ *Walter D. Morehead*, 31 ECAB 188 (1986).

⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Roy L. Humphrey*, 57 ECAB ____ (Docket No. 05-1928, issued November 23, 2005).

Appellant did not submit any other medical reports that specifically addressed whether her brief periods of disability beginning October 29 or December 9, 2005 were causally related to the April 27, 2002 employment injury. Consequently, she has not met her burden of proof in establishing her claim for a recurrence of disability.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish a recurrence of disability on October 29 and December 9, 2005, causally related to the April 27, 2002 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the February 21, 2006 and December 16, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 1, 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