

The findings of December 10, 2004 x-ray testing showed degenerative changes in the left shoulder with joint space narrowing and spurring of the glenoid and humeral head. The Office accepted that appellant sustained sprains of his left shoulder and left upper arm, including the infraspinatus muscle.¹

On August 23, 2006 appellant filed a Form CA2a alleging that he sustained a recurrence of disability on July 29, 2006 due to his December 10, 2004 employment injury.²

On September 20, 2006 Dr. David W. Boone, an attending Board-certified orthopedic surgeon, stated that he was seeing appellant for left shoulder pain which he related to a December 2004 fall. He indicated that on examination appellant exhibited limited range of motion and give-away weakness of the left shoulder. Dr. Boone stated that appellant's left shoulder pain was not from adhesive capsulitis but rather was from degenerative arthritis.

On October 19, 2006 Dr. Robert T. Wyker, an attending Board-certified orthopedic surgeon, stated that appellant reported that he injured his left shoulder in a December 2004 fall at work. He noted that appellant complained of persistent pain and stiffness in his left shoulder since that time. Dr. Wyker diagnosed "end-stage post-traumatic arthritis involving his left shoulder" and recommended a total left shoulder replacement.

In a November 16, 2006 decision, 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 on or after July 29, 2006 due to his December 10, 2004 employment injury.³

LEGAL PRECEDENT

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability and show that she cannot perform such light duty. As part of this burden the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.⁴

¹ In its acceptance letter, the Office inadvertently made reference to the right arm rather than the left arm.

² It is unclear from the record whether appellant stopped work around this time.

³ Appellant submitted additional evidence in connection with the present appeal before the Board, but the Board cannot consider such evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).

⁴ *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry R. Hedman*, 38 ECAB 222, 227 (1986). 20 C.F.R. § 10.5(x) provides, "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. This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force), or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations."

ANALYSIS

The Office accepted that on December 10, 2004 appellant sustained sprains of his left shoulder and left upper arm, including the infraspinatus muscle. Appellant subsequently alleged that he sustained a recurrence of total disability on July 29, 2006 due to his December 10, 2004 employment injury.

The Board finds that appellant did not submit sufficient medical evidence to show that he sustained a recurrence of total disability on or after July 29, 2006 due to his December 10, 2004 employment injury.

Appellant submitted a September 20, 2006 report in which Dr. Boone, an attending Board-certified orthopedic surgeon, stated that appellant reported that he had left shoulder pain due to a December 2004 fall. Dr. Boone indicated that on examination appellant exhibited limited range of motion and give-away weakness of the left shoulder. He stated that appellant's left shoulder pain was not from adhesive capsulitis but rather was from degenerative arthritis. Appellant also submitted an October 19, 2006 report in which Dr. Wyker, an attending Board-certified orthopedic surgeon, stated that appellant reported that he injured his left shoulder in a December 2004 fall at work. Dr. Wyker diagnosed "end-stage post-traumatic arthritis involving his left shoulder" and recommended a total left shoulder replacement.

These reports, however, are of limited probative value on the relevant issue of the present case in that they do not contain an opinion that appellant sustained an employment-related recurrence of total disability.⁵ Neither Dr. Boone nor Dr. Wyker provided an opinion that appellant sustained a recurrence of total disability on or after July 29, 2006 due to his December 10, 2004 employment injury. Although both physicians noted that appellant suggested that he had disabling residuals of his December 10, 2004 employment injury, they did not provide any indication that they agreed that such a recurrence of disability occurred. A well-rationalized medical opinion supporting appellant's recurrence of disability claim is especially necessary in the present case in that the record does not contain any medical evidence regarding appellant's left or upper arm shoulder condition from 2005 or the first half of 2006. The record is devoid of evidence bridging the treatment appellant received in December 2004 to that received in August 2006.

⁵ 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).

For these reasons, appellant has not shown that a change in the nature and extent of his injury-related condition caused him to sustain a recurrence of total disability on or after July 29, 2006. In addition, he has not alleged or otherwise shown that a change in the nature and extent his light-duty job requirements rendered him totally disabled. Therefore, the Office properly denied his claim for recurrence of total disability.

CONCLUSION

The Board finds that appellant did not meet his burden or proof to establish that he sustained a recurrence of total disability on or after July 29, 2006 due to his December 10, 2004 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' November 16, 2006 decision is affirmed.

Issued: April 26, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board