

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

N.S., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Dallas, TX, Employer)

**Docket No. 07-147
Issued: March 8, 2007**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 23, 2006 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated September 26, 2006. 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 met his burden of proof in establishing that he sustained a recurrence of disability on April 14, 2006 causally related to his June 29, 1993 employment injury.

FACTUAL HISTORY

On July 6, 2006 appellant, then a 47-year-old postal worker, filed a recurrence of disability claim alleging that on April 14, 2006 he sustained a recurrence of his June 29, 1993 employment injury. He stated that he returned to work with restrictions on lifting. Appellant did not identify the accepted employment injury of June 29, 1993 and did not describe his current condition or disability.

In support of his claim, appellant submitted a report dated October 2, 2002 from Dr. Robert E. Bayless, an orthopedic surgeon, who provided findings regarding appellant's bilateral shoulder condition and diagnosed impingement syndrome. Dr. Bayless indicated that appellant should lift no more than 20 pounds and should not lift over his head.

In a letter dated August 1, 2006, the Office informed appellant that the case record in his original claim had been lost and that his claim must be reconstructed. The Office also requested additional information regarding appellant's alleged claim for recurrence of disability. The Office allowed 30 days for a response. No material was forthcoming.

By decision dated September 26, 2006, the Office denied appellant's claim for recurrence of disability. The Office noted that appellant's original claim was accepted for bilateral tenosynovitis of the hands and wrists and bilateral carpal tunnel syndrome.¹

LEGAL PRECEDENT

A recurrence of disability is 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 which caused the illness. The 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.²

Where an employee claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury. The burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concluded that the condition is causally related to the employment injury. Moreover, sound medical reasoning must support the physician's conclusion.³

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury. In this regard, medical evidence of bridging symptoms between the recurrence of the accepted injury must support the physician's conclusion of a causal relationship. While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be

¹ Following the Office's September 26, 2006 decision, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board may not review the evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c).

² 20 C.F.R. § 10.5(x).

³ *Ricky S. Storms*, 52 ECAB 349 351-52 (2001).

speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.⁴

ANALYSIS

Appellant alleged that he sustained a recurrence of disability due to his accepted employment injury of bilateral carpal tunnel syndrome and bilateral tenosynovitis of the hands and wrists. He did not describe his current symptoms beginning on April 14, 2006 and resulting in his alleged recurrence of disability. Appellant did not submit any current medical evidence or bridging medical evidence addressing his accepted employment injuries or his current conditions which he felt resulted in a recurrence of disability.

The only medical report before the Board is the October 2, 2002 report from Dr. Bayless, an orthopedic surgeon, addressing appellant's bilateral shoulder conditions. There is no evidence that appellant's bilateral shoulder conditions were accepted by the Office as due to his employment or that these conditions were causally related to his accepted employment injuries. Appellant has failed to submit the necessary factual and medical evidence to establish his claim for recurrence of disability. The Office properly denied his claim.

CONCLUSION

The Board finds that appellant has failed to submit the necessary factual and medical evidence to establish that he sustained a recurrence of disability on April 14, 2006 as alleged.

ORDER

IT IS HEREBY ORDERED THAT the September 26, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 8, 2007
Washington, DC

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

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

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

⁴ *Id.*