

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

F.L., Appellant)	
)	
and)	Docket No. 10-1182
)	Issued: January 5, 2011
U.S. POSTAL SERVICE, POST OFFICE,)	
Roxbury, MA, Employer)	

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 March 24, 2010 appellant filed a timely appeal from the December 30, 2009 decision of the Office of Workers' Compensation Programs denying his recurrence claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant established that he sustained a recurrence of disability on February 21, 2008 causally related to a June 14, 2001 employment injury.

On appeal, appellant attributed injury to his left ulnar nerve as the direct result of his June 24, 2001 employment injury. He also contended that the report by his orthopedic surgeon was sufficient to establish his claim.

FACTUAL HISTORY

On June 14, 2001 appellant, then a 45-year-old letter carrier, sustained injury when he tripped and fell while in the performance of duty. He dislocated and fractured his left elbow. On August 9, 2002 the Office accepted appellant's claim for left elbow fracture. The employing establishment noted that appellant returned to work full duty on August 16, 2001.

On September 7, 2008 appellant filed a claim alleging a recurrence of disability on February 2, 2008. He noted that he had no medical treatment for the injury from 2001 until he saw his primary care physician for a consultation in 2008. In a September 3, 2008 report, Dr. Sang-Gil P. Lee, a Board-certified orthopedic surgeon with a subspecialty in surgery of the hand, listed his impression as old healed radial head fracture with mild degenerative changes of the left elbow. Dr. Lee set forth appellant's prior history, noting that he had two separate elbow injuries, once when he fell on November 12, 1994 and the June 14, 2001 work injury. He recommended that appellant undergo an ulnar nerve release with submuscular transposition of the left along with the left elbow arthroscopy and debridement and loose body. In an accompanying attending physician's report, Dr. Lee checked a box indicating that appellant's condition was caused or aggravated by employment activity and listed the date of injury as August 14, 2001. Appellant also submitted a page from an unknown book with regard to elbow injuries.

By letter dated September 23, 2008, the Office requested that appellant submit further information as the evidence received was insufficient to establish his claim for a recurrence.

In a letter received by the Office on November 19, 2008, appellant indicated that on February 2, 2008, while sitting at a blackjack video machine in Las Vegas, he realized that the pinky finger of his left hand had the sensation of pins and needles or a tingling feeling. He noted that his left hand had been lying flat on the surface of the machine. Appellant indicated that his pinky finger felt the same the rest of the weekend and after he returned to work. After seeing his primary care physician, he discovered that the problem was not with his hand but due to damage to the left ulnar nerve. In a June 14, 2001 report, Dr. Mehrdad Hamedani, a physician, detailed his treatment of appellant for a fracture of the head of the radius. He listed an assessment as fracture dislocation of the left elbow by history. A July 5, 2001 x-ray was interpreted as evincing comminuted depressed fracture of the lateral aspect of the radial head, nondisplaced fracture of the proximal ulna and minimal degenerative changes at the proximal radioulnar joint.

By decision dated December 19, 2008, the Office denied appellant's recurrence claim.

On August 19, 2009 appellant requested reconsideration. He submitted an April 22, 2009 report from Dr. Lee, who indicated that appellant had degenerative changes in the left elbow related to his previous fracture and severe left ulnar nerve dysfunction. In a May 12, 2009 operative report, Dr. Lee noted that appellant underwent a left elbow arthroscopy with complete synovectomy, loose body retrieval and removal, left ulna nerve release at the cubital tunnel and flexor-pronator delengthening with submusculature transposition. In a July 15, 2009 report, he found that appellant was ready to return to full-duty work as of July 17, 2009. Dr. Lee stated that appellant's ulnar nerve neuropathy was directly related to his elbow dislocation because it caused stretching of the nerve or compression. Appellant's left elbow dislocation on June 14, 2001 placed definite direct stress to the ulnar nerve, located just opposed to the elbow joint and supported by ring and small finger numbness immediately after dislocation. The persistence of this numbness was a clear indication of causally related. Dr. Lee stated: "[Electromyogram] confirms that he has ulnar neuropathy at the elbow, he had dislocation at the elbow, hence it is elbow dislocation that has caused this."

In a decision dated December 30, 2009, the Office denied modification of its December 18, 2008 decision.

LEGAL PRECEDENT

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 has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.”¹ A person 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 he claims compensation is causally related to the accepted injury. This burden of proof requires that an employee furnish 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 reasoning.² In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician’s conclusion of a causal relationship.³ Where no such rationale is present, the medical evidence is of diminished probative value.⁴

ANALYSIS

The Office accepted appellant’s claim that on June 14, 2001 he sustained a left elbow fracture during the course of his federal employment. Appellant alleged that he sustained a recurrence of his injury on February 2, 2008. However, the Board finds that he has not met his burden of proof to establish a recurrence.

Dr. Lee, appellant’s treating orthopedic surgeon, opined on July 15, 2009 that appellant sustained an elbow dislocation on June 14, 2001, which caused the stretch of the nerve or compression of the nerve that ultimately led to the ulnar nerve neuropathy. He stated, “[Electromyogram] confirms that he has ulnar neuropathy at the elbow, he had dislocation at the elbow, hence it is elbow dislocation that has caused this.” However, Dr. Lee provided no bridging evidence between appellant’s accepted June 14, 2001 employment injury and his alleged recurrence on February 21, 2008. The record contains no medical evidence or any other evidence between May 2002 and the filing of the claim for recurrence in September 2008, a period of over six years. In fact, appellant admits that he received no medical treatment for his employment injury from 2001 until he saw his primary care physician for a consultation in 2008. Dr. Lee does not explain why he believes that there was a relationship between appellant’s accepted June 14, 2001 employment injury and the alleged recurrence on February 21, 2008 despite a six-year gap where there is no evidence that appellant had continuing symptoms or sought medical treatment.

¹ *T.S.*, 61 ECAB ___ (Docket No. 09-1256, issued April 15, 2010); *R.S.*, 58 ECAB 362 (2007); 20 C.F.R. § 10.5(x).

² *I.J.*, 59 ECAB 408 (2008); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

³ *Rickey S. Storms*, 52 ECAB 349 (2001). For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 738 (1986).

⁴ See *Ronald C. Hand*, 49 ECAB 113 (1957); *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

Dr. Hamedani did not address the issue of employment relationship between the current condition and the accepted employment injury. Thus, his report is insufficient to establish appellant's claim for a recurrence of disability.

Accordingly, the Board finds that appellant has not established that he suffered a recurrence as he has not submitted rationalized medical evidence establishing the recurrence or bridging evidence connecting his accepted employment injury on June 14, 2001 and his alleged recurrence in February 2008.⁵

CONCLUSION

The Board finds that appellant has not established that he sustained a recurrence of disability on February 21, 2008 causally related to a June 14, 2001 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 30, 2009 is affirmed.

Issued: January 5, 2011
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

⁵ Appellant submitted a page from an unidentified book in support of his claim. However, newspaper clippings, medical texts and excerpts of publications are of no evidentiary value in establishing a claim as they are of general application and are not probative as to whether specific conditions were the result of particular circumstances of the employment. *Eugene Van Dyk*, 53 ECAB 706 (2002); *Alan L. Buchholz*, 33 ECAB 271 (1981).