

van. The door fell onto his right wrist area. The traumatic injury claim was accepted for contusion to the right hand.

On December 30, 2009 appellant filed an occupational disease claim, alleging severe shoulder pain and radiating numbness from the elbow into the wrist. He explained that his condition began on September 27, 1995 with the injury of that date but that he only became aware of the causal relationship between his shoulder pain and his employment injury on September 4, 1996.

By letter dated March 5, 2010, OWCP explained that the claim would be adjudicated as a recurrence of the 1995 injury. It further noted that medical evidence was necessary to establish the causal relationship between the claimed current condition and the accepted injury.

OWCP thereafter received January 20 and February 12, 2010 statements from the employing establishment challenging the claim. The employing establishment's injury compensation program administrator stated in her January 20, 2010 letter that appellant's claim was untimely and barred because it was filed more than three years after he realized his condition was related to employment. Appellant's December 30, 2009 claim form indicated that he first realized that his injury was work related on September 4, 1996. This would make his claim beyond the three-year limit provided by FECA. Further, the employing establishment indicated that appellant's supervisor at the time of the injury had no recollection of appellant filing an injury claim. Finally, it asserted that no medical evidence had been submitted to establish the causal relationship between appellant's current medical complaints and employment.

A February 12, 2010 statement from Brian J. Connors, Branch Head, at the time of appellant's September 1995 injury stated that appellant's injury had appeared minor and had no serious medical consequences.

In a supplemental statement dated March 8, 2010, appellant again described his September 27, 1995 incident and explained that he had returned to light duty, because his supervisor minimized the injury. He stated that he had lived and worked with pain ever since the 1995 incident.

By decision dated May 17, 2010, OWCP denied the claim for a recurrence of disability and explained that appellant had submitted no medical evidence relating appellant's current condition and the accepted work factors.

Appellant disagreed with the decision and requested a hearing before an OWCP representative through his attorney. At the hearing, he testified that his condition had worsened. Appellant stated that he experienced severe right shoulder pain with radiating numbness in the elbow and wrist during December 2009. He testified that he had continued pain from the 1995 injury; however, the pain worsened in November and December 2009.

Appellant stated that the original injury had been more than a simple contusion and that he had worn an arm sling for more than one week after he was hurt. He claimed that he never recovered from the original injury. Appellant also testified regarding his employment duties following the injury.

Appellant and his attorney were advised of the medical evidence necessary to further consider a recurrence versus a claim of new injury.

Appellant submitted health unit records from September 1995, including a report dated September 27, 1995. It is unclear whether the report was signed by a physician. The report diagnosed appellant with a soft tissue injury secondary to trauma in the right hand and wrist and he was referred to occupational health for further evaluation, treatment and an x-ray.

Appellant also submitted an October 20, 2010 medical report by Dr. Geoffrey L. Loman, a Board-certified family practitioner, that appellant's MRI scan results revealed advanced degenerative changes of the glenohumeral joint with chondral thinning and osteophytes. Dr. Loman further noted additional symptoms in appellant's right shoulder. He did not discuss the cause of appellant's shoulder condition.

By decision dated February 1, 2011, OWCP's hearing representative denied appellant's claim for recurrence, finding that appellant failed to present medical evidence establishing causal relationship between his current condition and the employment.

LEGAL PRECEDENT

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 A recurrence of disability is defined as the inability to work caused by a spontaneous change in a medical condition which results from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness. The Board notes that any contribution of employment factors is sufficient to establish the element of causal relation.³

ANALYSIS

On September 27, 1995 appellant sustained a contusion of the right hand in the performance of duty. He initially returned to a short period of limited duty and then full duty. Appellant is now alleging that his current right shoulder condition is a recurrence of the 1995 wrist injury.

As a practical matter, appellant wants to have his accepted injury expanded to include arm and shoulder conditions in addition to the hand contusion. The Board finds that appellant has not met his burden of proof.

² *C.L.*, Docket No. 11-193 (issued October 6, 2011); *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

³ *See L.R., claiming as widow of E.R.*, 58 ECAB 369 (2007).

As part of his burden of proof, appellant must submit a medical report from a physician who concludes appellant's condition on December 30, 2009 was causally connected to the accepted 1995 employment injury. Beyond an opinion, the physician must support that conclusion with sound medical reasoning. The employing establishment records from September 1995 document appellant's accepted injury, but offer no evidence regarding appellant's shoulder and arm complaints. Therefore those records cannot establish a recurrence of disability in 2009, some 14 years later.

Dr. Loman's October 20, 2010 report contained a thorough description of appellant's symptoms and provided a detailed diagnosis of his condition. However, it did not contain a history of the 1995 injury and did not offer any medical explanation regarding the cause of appellant's current arm and shoulder complaints. Consequently, Dr. Loman's report is of limited probative value in establishing a causal relationship between the 1995 injury and appellant's current condition.

As these two reports were the only medical evidence appellant submitted, the Board finds that appellant has failed to submit sufficient medical evidence to establish the causal relationship between his current right shoulder condition and his accepted injury of a contusion in the right hand.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that he sustained a recurrence of disability on December 30, 2009 causally related to his September 27, 1995 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the February 1, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 11, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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