

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LARRY WILLIAMS and DEPARTMENT OF THE NAVY,  
MILITARY SEALIFT COMMAND, Bayonne, N.J.

*Docket No. 96-898; Oral Argument Held December 17, 1997;  
Issued March 9, 1998*

Appearances: *Larry Williams, pro se; Mirium D. Ozur, Esq.*, for the Director,  
Office of Workers' Compensation Programs.

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on May 15, 1995 causally related to his January 28, 1991 employment injury.

On January 28, 1991 appellant, then a 23-year-old seaman, sustained a crushed leg in the performance of duty. He returned to work on June 1, 1991.

In a form dated May 15, 1995, appellant filed a claim for a recurrence of disability alleging that he sustained a recurrence of disability on that date which he attributed to his January 28, 1991 employment injury.

By letter dated June 22, 1995, the Office of Workers' Compensation Programs requested that appellant submit medical evidence supporting his claim of a recurrence of disability.

The record shows that appellant did not respond to the Office's request for supporting medical evidence.

By decision dated July 25, 1995, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to establish causal relationship between his claimed recurrence of disability and his January 28, 1991 employment injury.

By letter dated September 25, 1995, appellant requested reconsideration of the denial of his claim and submitted medical evidence.

In a form report dated September 21, 1995, Dr. Lorenzo P. Archer, an orthopedic surgeon, diagnosed a mass of the lower right leg and indicated by checking the block marked

“yes” that the condition was causally related to appellant’s January 28, 1991 employment injury. He indicated that appellant was able to perform his regular work.

In another form report dated September 21, 1995, Dr. Archer diagnosed a large cyst of the right leg and indicated by checking the block marked “yes” that the condition was causally related to the January 28, 1991 employment injury. He indicated that appellant was disabled from his regular work.

By decision dated November 15, 1995, the Office denied modification of its July 25, 1995 decision.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained a recurrence of disability on May 15, 1995 causally related his January 28, 1991 employment injury.

An individual 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 compensation is claimed is causally related to the accepted injury.<sup>1</sup> This burden includes the necessity of 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 supports that conclusion with sound medical rationale.<sup>2</sup> Where no such rationale is present, medical evidence is of diminished probative value.<sup>3</sup>

In this case, appellant sustained a leg injury in the performance of duty on January 28, 1991 and returned to work on June 1, 1991. On May 15, 1995 appellant filed a claim for a recurrence of disability on that date which he attributed to his January 28, 1991 employment injury and he submitted medical evidence in support of his claim.

In a form report dated September 21, 1995, Dr. Archer, an orthopedic surgeon, diagnosed a mass of the lower right leg and indicated by checking the block marked “yes” that the condition was causally related to appellant’s January 28, 1991 employment injury. He indicated that appellant was able to perform his regular work. As Dr. Archer indicated that appellant was able to work, this report does not support appellant’s claim of a recurrence of disability.

In another form report dated September 21, 1995, Dr. Archer diagnosed a large cyst of the right leg and indicated by checking the block marked “yes” that the condition was causally related to the January 28, 1991 employment injury. He indicated that appellant was disabled from his regular work. The Board has held that an opinion on causal relationship which consists only of checking “yes” to a form report question on whether the claimant’s disability was related

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<sup>1</sup> *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

<sup>2</sup> *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

<sup>3</sup> *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

to the history given is of little probative value.<sup>4</sup> Without any explanation or rationale, such a report has little probative value and is insufficient to establish causal relationship.<sup>5</sup> Furthermore, this report conflicts with Dr. Archer's other September 21, 1995 report in which he opined that appellant was able to perform his regular work. Therefore, this report is not sufficient to establish that appellant sustained a recurrence of disability on May 15, 1995 causally related to his January 28, 1991 employment injury.

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 employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.<sup>6</sup> Appellant failed to submit rationalized medical evidence establishing that his claimed recurrence of disability was causally related to the accepted employment injury and, therefore, the Office properly denied his claim for compensation.

The decisions of the Office of Workers' Compensation Programs dated November 15 and July 25, 1995 are affirmed.

Dated, Washington, D.C.  
March 9, 1998

George E. Rivers  
Member

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>4</sup> *Deborah S. King*, 44 ECAB 203 (1992); *Donald W. Long*, 41 ECAB 142, 146 (1989).

<sup>5</sup> *Id.*

<sup>6</sup> *See Walter D. Morehead*, 31 ECAB 188, 194-95 (1986).