

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ORLANDO S. RAMOS DOMENECH and U.S POSTAL SERVICE,
MAIN POST OFFICE, San Juan, PR

*Docket No. 97-1629; Submitted on the Record;
Issued September 2, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on September 26, 1992 causally related to his February 5, 1992 employment injury.

On September 16, 1992 appellant, then a 37-year-old distribution clerk, filed an occupational disease claim alleging that he sustained an emotional condition on February 5, 1992 which he attributed to his employment.

By decision dated April 12, 1993, the Office of Workers' Compensation Programs denied appellant's claim for compensation benefits. By letter dated May 10, 1993, appellant requested an oral hearing before an Office hearing representative.

On March 9, 1994 a hearing was held before an Office hearing representative at which time appellant testified. By decision dated May 30, 1995, the Office hearing representative vacated the Office's April 12, 1993 decision and remanded the case for further development.

By letter dated September 25, 1995, the Office referred appellant, along with a statement of accepted facts to Dr. Victor J. Llado, a psychiatrist, for an examination and evaluation as to whether appellant had sustained any disability or medical condition causally related to factors of his federal employment.

In a report dated October 25, 1995, Dr. Llado provided a history of appellant's condition and the results of a mental status examination and diagnosed a moderate depressive disorder. He stated his opinion that appellant's emotional condition began as a result of changes in his sleeping pattern due to his working the night shift for years, a severe, painful kidney stones condition and back spasms caused by a military service-related condition. He stated that appellant's work related factors were secondary level contributors to his condition. Dr. Llado stated his opinion that appellant's emotional condition was not permanently disabling. He

indicated that appellant could return to work within three to six months to perform at least manual mail sorting and would not require more than one year for full recovery.

By decision dated October 31, 1995, the Office accepted appellant's claim for a depressive reaction aggravated by his employment occurring on February 5, 1992.

In a claim form dated November 10, 1995, appellant claimed compensation benefits from August 27, 1992 to June 21, 1996.

By letter dated August 20, 1996, the Office asked Dr. Llado to provide appellant's specific period of disability.

The record shows that Dr. Llado did not respond to the Office's November 21, 1996 request for appellant's dates of disability.

By letter dated November 21, 1996, the Office noted that the employing establishment had stated that appellant was off work from August 27 through September 13, 1992 and that appellant returned to work on September 14, 1992 with no loss of wage-earning capacity and continued working through September 25, 1992. The Office noted that appellant stopped work again on September 26, 1992 but there was insufficient evidence to establish that appellant's disability commencing on September 26, 1992 was causally related to his February 5, 1992 excepted employment injury. The Office asked appellant to provide documentation establishing that his claimed recurrence of disability on September 26, 1992 was causally related to his employment injury.

In a letter dated November 22, 1996, the Office noted that, after being off work from August 27 to September 13, 1992, appellant returned to work on September 14, 1992 and continued working through September 25, 1992 and therefore was entitled to compensation benefits for the period August 27 to September 13, 1992.

By decision dated March 6, 1997, the Office denied appellant's claim for compensation benefits commencing on September 26, 1992.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained a recurrence of disability on and after September 26, 1992 causally related to his February 5, 1992 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.¹ 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

¹ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988).

that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.²

In this case, appellant sustained a depressive reaction aggravated by his employment on February 5, 1992. The record shows that he returned to work on September 14, 1992 and continued working through September 25, 1992. In a claim form dated November 10, 1995, appellant claimed compensation benefits from August 27, 1992 to June 21, 1996. The record shows that he received compensation benefits for August 27 through September 25, 1992. However, there is no medical evidence of record establishing that appellant's claimed disability on and after September 26, 1992 was causally related to his February 5, 1992 employment injury. The Office asked Dr. Llado to provide the specific periods of disability sustained by appellant as a result of the employment-related aggravation of his depressive reaction but received no response, nor is there any other medical evidence of record establishing that appellant's claimed disability after September 25, 1992 was employment related. Therefore, the Office properly denied appellant's claim for compensation benefits on and after September 26, 1992.

The March 6, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
September 2, 1999

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

² *Mary S. Brock*, 40 ECAB 461, 471 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).