

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH D. WHITFILL and DEPARTMENT OF THE ARMY,
U.S. ARMY GARRISON, Fort Campbell, Ky.

*Docket No. 96-529; Submitted on the Record;
Issued June 1, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence in November 1994 causally related to his June 16, 1994 employment injury.

On June 16, 1994 appellant, then a 30-year-old natural resource manager, was struck by lightning, which entered his left leg and exited the left side of his chest. Appellant returned to full-duty work the next day with no restrictions. The Office of Workers' Compensation Programs accepted appellant's claim for electrical shock.

On June 26, 1995 appellant filed a recurrence of disability claim alleging that the pain and soreness he had been experiencing in the muscles of his left leg since November 1994 appeared to have affected the muscles, which were in the path of the lightning strike, which occurred on June 16, 1995. Appellant did not stop work due to the alleged recurrence.

In support of his claim, appellant submitted medical reports and notes from Dr. Jimmy V. Wolfe, Board-certified in psychiatry and neurology and appellant's treating physician, who started treating appellant for left leg pain. After noting appellant's history of being struck by lightning and performing an electromyogram (EMG), Dr. Wolfe diagnosed mild left tibial and left peroneal neuropathy at the ankle on June 12, 1995.

By letter dated September 26, 1995, the Office advised appellant of the deficiencies in the claim. The Office requested appellant submit a detailed narrative medical report from his attending physician, Dr. Wolfe, which should include a rationalized medical opinion regarding the causal relationship between the condition treated on June 12, 1995 and the original electrical shock injury. The Office allowed appellant 30 days within which to submit the requested evidence.

Appellant submitted a progress note dated September 20, 1995 from Dr. Wolfe. This did not address the causal relationship between appellant's original injury and his claimed recurrent condition.

In a decision dated October 30, 1995, the Office rejected appellant's claim, finding that the evidence of record failed to establish causal relationship between the June 16, 1994 employment injury and appellant's claimed medical condition and disability. The Office further noted that appellant was advised of the deficiencies in the medical evidence and afforded the opportunity to provide clarifying, supportive evidence but that he failed to do so.

The Board finds that appellant has not established that he sustained a recurrence of disability causally related to his accepted June 16, 1994 employment injury.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the recurrence of a disabling condition, for which he seeks compensation was causally related to his accepted employment injury.¹ As part of such burden of proof, rationalized medical evidence showing causal relation must be submitted.² The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship between the two.³

Appellant has not submitted any medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, has concluded that he has any condition or disability causally related to his June 16, 1994 employment injury. In support of his claim, appellant submitted a medical report and progress notes from Dr. Jimmy V. Wolfe, his treating physician. While the reports from Dr. Wolfe support the fact that appellant has left tibial and left peroneal neuropathy at the ankle and note appellant's history of being struck by lightning they do not contain a reasoned opinion explaining why appellant sustained a recurrence of disability causally related to the June 16, 1994 injury, which is the issue in this case.

Dr. Wolfe failed to provide an opinion on whether the diagnosed condition of left tibial and left peroneal neuropathy at the ankle was causally related to the June 16, 1994 employment injury, where appellant was struck by lightning and, thus, his opinion is insufficient to meet appellant's burden of proof.⁴ Moreover, appellant was advised of the deficiencies in the claim and had failed to provide the requested information. It is not enough for appellant to allege a causal relationship between his work and his stated condition, evidence of the nature of any disabling condition and its relationship to a particular's employee's work can only be given by a physician fully acquainted with the relevant facts and circumstances of the employment injury and the medical findings. Appellant's opinion that his muscle pain is causally related to his June 16, 1994 employment injury, has no probative value on the medical issue.⁵ Appellant,

¹ *Barbara J. Williams*, 40 ECAB 649 (1989); *James A. Long*, 40 ECAB 538 (1989).

² *Id.*

³ *Id.*

⁴ *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

⁵ *Birger Areskog*, 30 ECAB 571 (1979); *see also James A. Long*, *supra* note 1.

therefore, has not provided probative medical evidence sufficient to establish that he sustained a recurrence of disability causally related to his June 16, 1994 employment injury.

The decision of the Office of Workers' Compensation Programs dated October 30, 1995 is hereby affirmed.

Dated, Washington, D.C.
June 1, 1998

George E. Rivers
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member