

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JONATHAN FULTON and DEPARTMENT OF THE TREASURY,
BUREAU OF ENGRAVING & PRINTING, Washington, D.C.

*Docket No. 97-612; Submitted on the Record;
Issued November 24, 1998*

DECISION and ORDER

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

The issue is whether appellant has established a recurrence of disability causally related to his May 18, 1992 employment injury.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a left knee strain in the performance of duty on May 18, 1992, when he slipped and twisted his knee. Appellant returned to work on May 21, 1992. On June 10, 1996 appellant filed a notice of recurrence of disability. He did not specifically indicate the date of the recurrence of disability.¹ By decision dated August 20, 1996, the Office denied the claim on the grounds that the evidence was insufficient to establish a recurrence of disability on June 5, 1996.

The Board has reviewed the record and finds that appellant has not established a recurrence of disability on June 5, 1996.

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 a claimant 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

The Board notes that although appellant submitted additional evidence to the Office on October 28, 1996, the Board is limited to review of evidence that was before the Office at the

¹ The supervisor's portion of the Form CA-2a indicates that appellant was off work on June 5, 1996 and returned to work the following day.

² *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

time of the August 20, 1996 decision.³ With respect to the medical evidence that was before the Office, appellant submitted a June 5, 1996 report from Dr. Craig Faulks, an orthopedic surgeon. Dr. Faulks noted a long history of degenerative arthritis of the left knee, with prior surgeries on the knee. Dr. Faulks stated that appellant's years of working at the employing establishment "doing quite a bit of heavy pushing and pulling has certainly contributed to his severe arthritis." He concluded that appellant was disabled due to the severe arthritis and would need a total knee replacement.

The Board notes that the claim in this case is based on a recurrence of disability causally related to the May 18, 1992 employment injury. Dr. Faulks' reference to job duties during years of working at the employing establishment may be relevant to an occupational disease claim, but is of little probative value to the claimed recurrence of disability.⁴ Dr. Faulks does not discuss the May 18, 1992 injury, nor provide a reasoned opinion that appellant was disabled on or about June 5, 1996 due to the accepted injury. Accordingly, the Board finds that appellant has not met his burden of proof in this case.

The decision of the Office of Workers' Compensation Programs dated August 20, 1996 is affirmed.

Dated, Washington, D.C.
November 24, 1998

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

³ 20 C.F.R. § 501.2(c).

⁴ A recurrence of disability includes a work stoppage caused by a spontaneous material change in the employment-related condition without an intervening injury. If the disability results from new exposure to work factors, an appropriate new claim should be filed; *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (January 1995).