

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EZEKEL EMERSON and DEPARTMENT OF THE NAVY,
MARE ISLAND NAVAL SHIPYARD, Vallejo, Calif.

Docket No. 97-2373; Submitted on the Record;
Issued May 12, 1999

DECISION and ORDER

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

The issue is whether appellant met his burden of proof to establish that he sustained a recurrence of disability.

The Board has given careful consideration to the issue involved, the contentions of appellant on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office of Workers' Compensation Programs dated April 15, 1997 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.¹

¹ The Board notes that, while appellant's treating Board-certified family practitioner, Dr. J.D. Wartell, advised that appellant should not drive because of episodes of paroxysmal dizziness, the record indicates that this condition was acquired subsequent to appellant's employment-related asbestosis and is not an employment-related condition. Appellant, therefore, did not meet his burden of proof to establish that he sustained a recurrence of disability causally related to the accepted condition. *Terry Hedman*, 38 ECAB 222 (1986).

The decision of the Office of Workers' Compensation Programs dated April 15, 1997 is hereby affirmed.

Dated, Washington, D.C.
May 12, 1999

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member