

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOSEPH A. SCHEPIPI and U.S. POSTAL SERVICE,  
GENERAL MAIL FACILITY, Albany, NY

*Docket No. 98-2317; Submitted on the Record;  
Issued February 4, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability causally related to an October 23, 1996 employment injury, commencing February 16, 1998.

On October 23, 1996 appellant, then a 52-year-old letter carrier, filed a traumatic injury claim (Form CA-1), alleging that he twisted his left ankle while walking in the performance of duty. Appellant missed no time from work; however, he was placed on limited duty for the period October 24 through November 11, 1996. He resumed his regular duties on November 12, 1996. Based on reports submitted by appellant's attending physician Dr. Jon T. Toussaint, a Board-certified orthopedic surgeon, the Office of Workers' Compensation Programs accepted appellant's claim for left ankle sprain and paid appropriate compensation benefits.

Appellant filed a notice of recurrence of disability (Form CA-2a) on February 16, 1998, alleging that the pain in his left ankle had been prevalent since the date of the original injury on October 23, 1996. By decision dated June 19, 1998, the Office denied appellant's claimed recurrence of disability, commencing February 16, 1998, on the grounds that the medical evidence of record failed to establish that the claimed recurrence was causally related to the October 23, 1996 employment injury.

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained a recurrence of disability, commencing February 16, 1998, causally related to the October 23, 1996 employment injury.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition for which he seeks compensation was causally related to this employment injury.<sup>1</sup> As part of this burden of proof, appellant must furnish

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<sup>1</sup> *Dominic M. DeScala*, 37 ECAB 369 (1986); *Henry L. Kent*, 34 ECAB 361 (1982).

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 employment factors and supports that conclusion with sound medical reasoning.<sup>2</sup> An award of compensation may not be made on the basis of surmise, conjecture, or speculation or on appellant's unsupported belief of causal relation.<sup>3</sup> The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship between the two.<sup>4</sup>

Although the record reveals that, as of February 18, 1998, following his alleged recurrence of disability, appellant began working in a limited-duty capacity, the medical evidence of record does not substantiate that the limited-duty assignment was a consequence of his employment-related left ankle sprain. In this regard, when enumerating appellant's restrictions for the limited-duty assignment on February 17, 1998, Dr. Toussaint, appellant's attending physician, indicated that appellant had degenerative disc disease of the left ankle and further indicated that appellant's prognosis was "poor without surgery." He did not address a causal connection between the diagnosed condition and the October 23, 1996 employment injury. In a report which accompanied appellant's restrictions, Dr. Toussaint noted the presence of arthritis in appellant's left ankle, which primarily involved the subtalar joint and to a lesser degree the tibiotalar joint; expressed the need for surgical intervention; and requested authorization to proceed with subtalar fusion. He concluded that appellant's "pathology is secondary to a compensable injury" and that appellant had a heel spur related to his altered gait. Dr. Toussaint did not provide any medical rationale causally relating appellant's degenerative condition to his employment injury and did not explain what in the nature of appellant's employment caused the condition, aggravated or precipitated the condition or why it disabled appellant from carrying out his regularly assigned duties. Additionally, the doctor did not describe the specific employment factors to which he attributed appellant's condition. The Board notes that, although Dr. Toussaint consistently noted degenerative joint disease of the left ankle as one of the diagnoses in his reports predating the alleged recurrence of disability claim, he did not address the issue of causal relationship between the October 23, 1996 employment injury and the degenerative joint disease in either of these reports. The foregoing notwithstanding, the only condition the Office accepted, based upon the reports of Dr. Toussaint, was left ankle sprain, which the doctor initially reported resolved on February 7, 1997. Since the Office only accepted left ankle sprain as employment related, appellant has the burden of proof in establishing a causal relationship by the submission of rationalized, substantive and probative medical evidence.<sup>5</sup> This he has failed to do.

As appellant has failed to submit any rationalized medical evidence establishing a causal relationship between the October 23, 1996 left ankle sprain and the alleged recurrence of

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<sup>2</sup> *Carmen Gould*, 50 ECAB \_\_\_\_ (Docket No. 97-2225, issued August 3, 1999); *Alfredo Rodriguez*, 47 ECAB 437 (1996).

<sup>3</sup> *Alfredo Rodriguez*, *supra* note 2.

<sup>4</sup> *Barbara J. Williams*, 40 ECAB 649 (1989); *James A. Long*, 40 ECAB 538 (1989).

<sup>5</sup> *James A. Long*, *supra* note 4.

disability, he has failed to meet his burden of proof. Accordingly, the Office properly denied his claim for compensation benefits.

The decision of the Office of Workers' Compensation Programs dated June 19, 1998 is hereby affirmed.

Dated, Washington, D.C.  
February 4, 2000

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member