

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DENNIS L. TURNBO and DEPARTMENT OF THE INTERIOR,  
NATIONAL PARK SERVICE, SHILOH NATIONAL MILITARY PARK, TN

*Docket No. 98-2483; Submitted on the Record;  
Issued February 28, 2000*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained a recurrence of disability based on his accepted injury.

On May 15, 1995 appellant, then a 47-year-old park ranger filed a claim for traumatic injury alleging that he injured his right shoulder while in the performance of duty.

On August 10, 1995 Dr. James H. Thomas, appellant's treating physician and a general practitioner, noted that he had treated appellant for capsulitis, right shoulder, from May 15 to August 3, 1995. He noted that he had prescribed physical therapy for appellant's condition, that he had returned appellant to regular work on May 16, 1995 and released him from medical care on August 3, 1995.

On October 23, 1995 the Office of Workers' Compensation Programs accepted appellant's claim for adhesive capsulitis right shoulder.

On June 6, 1997 appellant filed a claim for recurrence of disability. In an attached statement, appellant stated that after he initially injured his shoulder on May 12, 1995 his treating physician administered a cortisone shot and prescribed physical therapy for one month. Appellant stated that he believed his shoulder would continue to improve with exercise. He then noted that his arm "does not rotate fully around," that he had numbness and a tingling sensation in his right hand fingers. He further noted that he had had no other "type of injury to the shoulder since the initial accident." He added that the "pain and numbness I have now is from the same injury and getting worse as time goes by." Appellant also enclosed a May 29, 1997 medical report from Dr. Randall P. Frazier, appellant's treating physician Board-certified in orthopedic surgery. In that report, Dr. Frazier stated that appellant's right shoulder pain had been ongoing for about three years, but that "he had increasing problems the last month or so." On examination he noted limited external and internal range of motion with marked pain.

Dr. Frazier noted that appellant's shoulder x-rays were negative and diagnosed appellant with adhesive capsulitis.

By letter dated September 13, 1997, the Office advised appellant that he needed to submit additional information regarding his claim for recurrence of disability, including a detailed narrative medical report explaining the causal relationship between appellant's current disability and the original injury.

By decision dated October 8, 1997, the Office denied appellant's claim for recurrence of disability.

On November 3, 1997 appellant requested reconsideration. In support of his request appellant submitted a May 29, 1997 treatment note from Dr. Frazier, which stated that appellant's May 12, 1995 work-related injury "had begun the increasing problems he has had during this past month."

By decision dated January 28, 1998, the Office, in a merit decision, denied appellant's request for reconsideration on the grounds that the medical evidence did not address causal relationship between appellant's work-related injury and his claim for continuing medical treatment beginning in May 1997.

On March 17, 1998 appellant again requested reconsideration. In support of his request appellant submitted a March 10, 1998 medical report from Dr. Frazier. In that report, Dr. Frazier stated that he had examined appellant in May 1997 for adhesive capsulitis:

"[Which] is causally related to his May 1995 work-related injury secondary to the scarring that is present within the joint that has gradually increased to the point where it has locked up his right shoulder. Two years is a protracted amount of time for this to occur. This can be explained by the fact that he has been treated by Dr. Thomas in Savannah during this period, basically, at a level just enough to let him get by. However, he still continued to have symptoms during this period of time and has n[ot] been treated. His symptoms just get to a point where they required orthopedic evaluation at the current level. He has been treated appropriately and, as of June 26, 1997, is improved."

By decision dated June 12, 1998, the Office denied appellant's request for reconsideration on the grounds that the medical evidence failed to establish that appellant's current condition was causally related to his May 12, 1995 work-related injury.

The Board finds that appellant has failed to establish that he sustained a recurrence of disability on or after May 1997 causally related to his May 12, 1995 work-related injury.

An employee 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.<sup>1</sup>

In this case, the Office accepted appellant's claim for May 12, 1995 right shoulder adhesion capsulitis. Appellant thereupon filed a claim for recurrence of disability. In support of his claim, appellant submitted several medial reports from Dr. Frazier. In his May 29, 1997 report and treatment note, he noted that appellant's recent shoulder pain was caused by his May 1995 work-related injury. These reports are of no probative value because they do not establish a causal relationship between appellant's current condition and his work-related injury. Further, Dr. Frazier's March 10, 1998 medical report is internally inconsistent in that he notes that appellant has been treated by Dr. Thomas during a two-year period, from May 1995 to May 1997 and also noted that appellant "still continues to have symptoms during this period of time and has n[o]t been treated." Dr. Frazier also stated that appellant's condition was causally related to his work-related injury. This report is of no probative value because it contains an inaccurate history of appellant's treatment.<sup>2</sup> The report fails to establish a causal relationship between appellant's current condition and his work-related injury. Without any explanation or rationale for the conclusion, the March 10, 1998 report is insufficient to establish causal relationship.<sup>3</sup> An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment. To establish causal relationship, appellant must submit a physician's report, in which the physician reviews the factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, states whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his or his opinion. Appellant failed to submit such evidence and, therefore, failed to discharge his burden of proof.<sup>4</sup>

As noted above, part of appellant's burden of proof includes the submission of reasoned medical evidence which address whether the claimed disability is causally related to the accepted employment injury. Although the Office advised appellant of the type of medical evidence needed to establish his claim for a recurrence of disability, appellant failed to submit medical evidence addressing the dispositive issue of causal relationship. Accordingly, the Board finds that appellant has not established that he sustained a recurrence of disability on or after May 1997.

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<sup>1</sup> *Lourdes Davila*, 45 ECAB 139 (1993).

<sup>2</sup> *Marilyn L. Howard*, 33 ECAB 683 (1982) (where the Board held that a medical opinion based on an incomplete and inaccurate medical history is of diminished probative value).

<sup>3</sup> *Id.*

<sup>4</sup> *Corlisa L. Sims (Smith)*, 46 ECAB 172 (1994).

The decisions of the Office of Workers' Compensation Programs, dated June 12 and January 28, 1998 and October 8, 1997 are hereby affirmed.

Dated, Washington, D.C.  
February 28, 2000

George E. Rivers  
Member

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member