

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONDA G. DAVIS and U.S. POSTAL SERVICE,
POST OFFICE, Birmingham, AL

*Docket No. 00-1687; Submitted on the Record;
Issued March 29, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant sustained a recurrence of disability on or about May 12, 1998 as a result of her May 11, 1995 employment injury.

On May 11, 1995 appellant, then a 36-year-old letter sorting machine operator, sustained an employment injury while clearing a dropper jam. The Office of Workers' Compensation Programs accepted her claim for lumbosacral strain. Appellant returned to normal duty in July 1995.

On May 28, 1999 appellant's attending physician, Dr. Robert G. Sorrell, reported that appellant has some recurrence of back pain mostly in the lower lumbar area. X-rays showed arthritis at L4-S1 with some slight degenerative scoliosis. Dr. Sorrell thought the problem was mostly muscular. He prescribed medication and imposed work restrictions.

On May 28, 1999 appellant filed a claim stating that she sustained a recurrence of disability on May 12, 1998 as a result of her May 11, 1995 employment injury. She explained: "When I arrived at work, I got out of the car and began walking into the parking lot when I almost fell to my knees. The pain in my back was so severe that I yelled for help, but no one was there; I struggled to my feet and continued in when others saw me and asked what was wrong because I was bent over." The employing establishment reported that appellant did not stop work.

On June 22, 1999 the Office requested that appellant submit additional information to support her claim, including her physician's opinion, with supporting explanation, as to the causal relationship between her current disability or condition and the original injury.

On June 30, 1999 a neurology specialist, Dr. Robert L. Pearlman, responded as follows:

“She was originally seen by me in the office on April 28, 1999 and again on June 2 and 30, 1999. She carries the diagnosis of cervical radiculopathy by her history, physical findings and confirmatory [magnetic resonance imaging] scan. She has tried conservative therapy, without benefit at this point in time and has been referred to a neurosurgeon for evaluation. I do think that her manual labor at the [employing establishment], as described by me, is contributing to her symptoms and is worsening them.”

On September 16, 1999 the Office issued a decision denying appellant’s claim. The Office found that the medical evidence failed to support a recurrence of disability on May 12, 1998 related to the employment injury of May 11, 1995.

The Board finds that the medical evidence of record fails to establish that appellant sustained a recurrence of disability on or about May 12, 1998 as a result of her May 11, 1995 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing 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 who supports that conclusion with sound medical reasoning.¹

The record contains no such medical opinion. Dr. Pearlman attributed the worsening of her symptoms to manual labor at work, which suggests an occupational injury caused by exposure to relatively contemporaneous employment factors. Appellant claimed, however, that she sustained a recurrence of disability for work on work on May 12, 1998 as a result of her May 11, 1995 employment injury, not because of recent manual labor. Neither Dr. Pearlman nor any other physician of record has explained medically how the incident that occurred on May 11, 1995 caused a spontaneous return of disability for work on or about May 28, 1998. Appellant has, therefore, not met her burden of proof.

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

The September 16, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
March 29, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member