

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CYNTHIA L. CLARK and U.S. POSTAL SERVICE,
POST OFFICE, West Palm Beach, Fla.

*Docket No. 97-87; Submitted on the Record;
Issued September 25, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs properly reduced appellant's monetary compensation to zero for failure to cooperate with vocational rehabilitation.

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 Office hearing representative, dated and finalized on July 24, 1996, is in accordance with the facts and law in this case and hereby adopts the findings and conclusions of the hearing representative.

The Board notes that on appeal appellant's representative alleges that the Office did not properly clarify the report from the impartial medical specialist, Dr. John P. Schosheim, a Board-certified psychiatrist, who had initially reported on June 8, 1994 that appellant would be able to return to work after a "settlement" was reached with the employing establishment. The Board notes in this regard that the Office did advise Dr. Schosheim on March 21, 1995 that his June 8, 1994 report required clarification in several respects. The Office also advised Dr. Schosheim that under the Federal Employees' Compensation Act "settlements" was not payable, but rather appellant would receive monthly compensation until she was able to return to work in some type of employment. In a report dated March 27, 1995, Dr. Schosheim did clarify his earlier report. The Board also notes that appellant's representative has alleged that a confrontation between appellant and her first Office vocational rehabilitation specialist on September 9, 1994 constituted a consequential event, and was therefore a compensable factor of employment which the impartial medical specialist should have been apprised of. The Board concurs in the hearing representative's determination that there is no factual substantiation that appellant was abused by her rehabilitation counselor on September 9, 1994. Rather the facts establish that appellant refused to sign paperwork presented by the rehabilitation counselor, including the rehabilitation agreement and medical release. Appellant's actions during the September 9, 1994 meeting with her vocational rehabilitation counselor in fact evidenced appellant's uncooperative attitude during the vocational rehabilitation process.

The decision of the Office of Workers' Compensation Programs dated July 24, 1996 is hereby affirmed.

Dated, Washington, D.C.
September 25, 1998

George E. Rivers
Member

David S. Gerson
Member

Michael E. Groom
Alternate Member