U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GWENDOLYN BROWN and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, OH

Docket No. 97-2408; Submitted on the Record;
Issued August 9, 1999

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation benefits.

The Board has duly reviewed the case on appeal and finds that the Office met its burden of proof to terminate appellant's compensation benefits.

Appellant filed a claim on March 11, 1990 alleging that she developed swollen hands after keying in the performance of duty. The Office accepted her claim for bilateral tenosynovitis on January 29, 1992. The Office expanded appellant's claim to include major depressive disorder on May 11, 1992 and radiculopathy on July 24, 1992. The Office entered appellant on the periodic rolls on March 1, 1993. The Office proposed to terminate appellant's compensation benefits on May 21, 1996. By decision dated June 26, 1996, the Office terminated appellant's compensation benefits finding her work-related conditions had resolved. Appellant requested an oral hearing and by decision dated June 10, 1997, the hearing representative affirmed the June 26, 1996 decision.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.[1] After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.[2] Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.[3] To

[1] *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

[2] *Id.*

[3] *Furman G. Peake*, 41 ECAB 361, 364 (1990).

terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.[4]

Appellant's attending physician, Dr. Grant L. Heller, a Board-certified neurologist, completed a report on August 2, 1993 noting appellant's history of injury. Dr. Heller diagnosed pains in limbs, radiculopathy and anxiety state. The Office referred appellant for a second opinion evaluation with Dr. Malcolm A. Brahms, a Board-certified orthopedic surgeon. In a report dated September 2, 1993, Dr. Brahms noted appellant's history of injury and performed a physical examination. He reviewed appellant's test results and concluded that there was no evidence of any objective findings or test results which document tenosynovitis or radiculopathy. Dr. Brahms stated that appellant's work duties did not account for her symptoms.

Section 8123(a) of the Federal Employees' Compensation Act,[5] provides, "If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination." Due to the disagreement between appellant's physician, Dr. Heller, who found that appellant had continuing conditions causally related to her accepted employment injuries and Dr. Brahms, the Office second opinion physician, who found that appellant had no objective findings and that her work duties did not account for her symptoms, the Office properly referred appellant for an impartial medical examination by Dr. Ralph J. Kovach, a Board-certified orthopedic surgeon.

In his September 25, 1995 report, Dr. Kovach noted appellant's history of injury and performed a physical examination. He found appellant had full range of motion, no muscle spasm and normal neurological examination with negative Phalen's and Tinel's signs. Dr. Kovach reviewed the medical records and noted that appellant had a positive Gordon Toe Flexion, a test used to establish if a patient is exaggerating symptoms. He concluded that appellant had no objective evidence of any problems with her wrist or spine, that she had no residuals of her accepted condition, no work restrictions and required no further treatment. Dr. Kovach completed a work restriction evaluation and found that appellant had no work restrictions due to her wrist and back.

In situations were there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.[6] Dr. Kovach's report is entitled to the weight of the medical evidence in regard to appellant's physical condition. He based his report on a proper factual background as well as providing physical findings in support of his conclusion that she was no longer disabled and exaggerating her symptoms. Therefore, the Office properly found that appellant no longer had a physical condition causally related to her accepted employment injury.

[4] *Id.*

[5] 5 U.S.C. §§ 8101-8193, 8123(a).

[6] *Nathan L. Harrell*, 41 ECAB 401, 407 (1990).

Appellant also received treatment from Dr. David D. Faro, a clinical psychologist. Dr. Faro completed a form reports including one on June 11, 1993 and diagnosed major depression. He indicated with a check mark "yes" that this condition was due to appellant's accepted employment injuries.

The Office referred appellant for a second opinion evaluation with Dr. Gottfried K. Spring, a Board-certified psychiatrist. Dr. Spring previously examined appellant on March 19, 1992 and diagnosed chronic pain disorder with psychological factors and secondary gain causally related to appellant's employment injury. In a report dated April 13, 1994, Dr. Spring noted that he had previously examined appellant and reported that appellant had no evidence of a depressed affect, that she smiled readily and that her speech was spontaneous. He noted that appellant stated that her appetite was good and that she slept fine. Dr. Spring found no evidence of significant depression and concluded that appellant was not suffering from major depressive disorder. He stated that appellant could work eight hours a day from a psychological standpoint, but not in a high stress position.

The Board finds that Dr. Spring's report constitutes the weight of the medical opinion evidence regarding appellant's emotional condition. He was familiar with appellant's history of injury and had previously found that she experienced an emotional condition as a result of her employment injury. In his April 13, 1994 report, Dr. Spring provided detailed findings in support of his conclusion that appellant was no longer depressed. As Dr. Spring provided reasoning in support of his conclusion, his report is entitled to greater weight than that of Dr. Faro. Furthermore, the opinion of physician's who have training and knowledge in a specialized medical field have greater probative value concerning medical question particular to that filed than the opinions of other physicians.[7]

Dr. Faro, a clinical psychologist, did not provide any reasons or medical rationale in support of his opinion that appellant continued to experience major depression as a result of her accepted employment injury. He merely checked "yes" to a form question of whether appellant's current condition was related to her history of injury. The Board has held that an opinion on causal relationship, which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.[8]

As Dr. Spring provided findings and reasoning in support of his conclusion that appellant was no longer disabled, Dr. Spring's report is entitled to the weight of the medical evidence and the Office met its burden of proof in establishing that appellant was no longer disabled or experiencing residuals of her accepted emotional condition.

Following the Office's June 24, 1996 decision, appellant submitted additional medical evidence from Dr. Faro. Appellant submitted treatment notes from March 13 through

[7] *Cleopatra Mc Dougal-Saddler*, 47 ECAB 480, 489 (1996).

[8] *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

November 27, 1995 and February 23, 1996. These notes did not address the causal relationship between appellant's current condition and her accepted employment injury and are insufficient to meet her burden of proof.

In a report dated July 12, 1996, Dr. Faro stated that appellant continued to have anxiety disorder and major depression. He stated that her condition had improved since she was consistently taking Paxil and receiving psychotherapy. Dr. Faro stated that appellant had not improved to the level that she could return to work and that appellant's anxiety and depression were directly related to her job, her injury and the chronic pain disorder she suffered since the injury.

Although this report provides Dr. Faro's opinion that appellant continues to experience her emotional condition and that these conditions are causally related to her employment injury, this report is not sufficient to establish appellant's continuing disability. Dr. Faro did not provide any findings or medical reasoning explaining why he believed appellant continued to be depressed due to her employment injury and why she could not return to work due to this condition. Such reasoning is necessary as the treatment notes submitted by Dr. Faro indicate that appellant experienced several life events, which could contribute to her emotional conditions as well as noting her level of functioning to include finishing course work. Furthermore, as Dr. Spring has provided findings and rationale for his conclusion that appellant no longer experiences an emotional condition, Dr. Faro must overcome the weight of those findings.

The decisions of the Office of Workers' Compensation Programs dated June 10, 1997 and June 24, 1996 are hereby affirmed.

Dated, Washington, D.C.
August 9, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member