

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENNETH R. KETTER and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 97-2860; Submitted on the Record;
Issued August 5, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant is entitled to continuation of pay after December 2, 1996.

In a decision dated August 13, 1997, the Office of Workers' Compensation Programs found that appellant was not entitled to continuation of pay after December 2, 1996, because the medical evidence indicated that he was capable of performing light duty and because he refused an offer of suitable limited duty.

The Board finds that appellant is not entitled to continuation of pay after December 2, 1996.

Section 8118 of the Federal Employees' Compensation Act provides for payment of continuation of pay, not to exceed 45 days and subject to specified conditions, to an employee who has filed a claim for a period of wage loss due to a traumatic injury.¹ Section 10.204(a)(3) of Title 20 of the Code of Federal Regulations provides that where pay is continued after an employee stops work due to a disabling traumatic injury, such pay shall be terminated when the employing establishment receives evidence that the attending physician has found the employee to be partially disabled and the employee refused suitable work, which had been offered by the employing establishment, in accordance with section 10.207 or fails to respond to such offer within five workdays of receipt of the offer.²

The employing establishment received evidence that the attending physician, Dr. Annie L. Callangan, had found appellant to be capable of limited duty on December 2, 1996. The employing establishment also received a December 2, 1996 work status report from Dr. Callangan specifying appellant's work restrictions. On December 3, 1996 the employing

¹ 5 U.S.C. § 8118.

² 20 C.F.R. § 204(a)(3).

establishment offered appellant limited duty within these restrictions. Asserting that he was unable to work at that time, appellant rejected the offer that same day.

As the record on appeal shows that the conditions of 20 C.F.R. § 10.204(a)(3) were met, the Board finds that continuation of pay was appropriately terminated after December 2, 1996.

The August 13, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
August 5, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member