

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GERALDINE M. TANG and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, Ill.

*Docket No. 97-323; Submitted on the Record;
Issued February 1, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation effective November 12, 1995 on the grounds that she had no disability due to her November 14, 1994 employment injury after that date.

The Board finds that the Office met its burden of proof to terminate appellant's compensation effective November 12, 1995 on the grounds that she had no disability due to her November 14, 1994 employment injury after that date.

Under the Federal Employees' Compensation Act,¹ when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.² However, when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.³ Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.⁴ The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.⁵ The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁶

¹ 5 U.S.C. §§ 8101-8193.

² *Richard T. DeVito*, 39 ECAB 668, 673 (1988); *Leroy R. Rupp*, 34 ECAB 427, 430 (1982).

³ *Ann E. Kernander*, 37 ECAB 305, 310 (1986); *James L. Hearn*, 29 ECAB 278, 287 (1978).

⁴ *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

⁵ *Id.*

⁶ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

In the present case, the Office accepted that appellant sustained an employment-related lumbar sprain and left lower abdomen and groin strains on November 14, 1994 and paid compensation for periods of disability. By decision dated October 23, 1995, the Office terminated appellant's compensation effective November 12, 1995 on the grounds that the weight of the medical evidence showed appellant did not have an employment-related disability after that date. The Office based its termination determination on the opinion of Dr. Marshall I. Matz, a Board-certified neurosurgeon, to whom it referred appellant. By decisions dated January 24, May 15 and September 12, 1996, the Office denied modification of its October 23, 1995 decision.

In a report dated June 28, 1995, Dr. Matz determined that appellant no longer had disability due to her November 14, 1995 employment injury. The Board has carefully reviewed the opinion of Dr. Matz and notes that it has reliability, probative value and convincing quality with respect to its conclusions regarding the relevant issue of the present case. Dr. Matz' opinion is based on a proper factual and medical history in that he had the benefit of an accurate and up-to-date statement of accepted facts, provided a thorough factual and medical history and accurately summarized the relevant medical evidence.⁷ Moreover, Dr. Matz provided a proper analysis of the factual and medical history and the findings on examination, including the results of diagnostic testing and reached conclusions regarding appellant's condition which comported with this analysis.⁸ Dr. Matz provided medical rationale for his opinion by explaining that appellant showed no objective signs of continuing employment-related disability. He indicated that appellant's symptoms were subjective in nature and could not be explained by her soft-tissue employment injuries which would have resolved some time ago.

The record contains reports from mid 1995, in which Dr. Fernando J. Pascual, an attending Board-certified family practitioner, diagnosed chronic lumbar, abdomen and groin strains, fibromyositis and fibromyalgia and indicated that appellant's condition continued to be employment related. These reports, however, are of limited probative value on the relevant issue of the present case, in that they did not contain adequate medical rationale in support of their conclusions on causal relationship.⁹ The record contains numerous other reports detailing appellant's medical condition around the time her compensation was terminated, but none of these reports contains an opinion on the cause of her condition. These reports are of limited probative value on the relevant issue of the present case, in that they do not contain an opinion on causal relationship.¹⁰

⁷ Appellant alleged that Dr. Matz did not perform a thorough examination, but a review of the June 28, 1995 report refutes this assertion.

⁸ See *Melvina Jackson*, 38 ECAB 443, 449-50 (1987); *Naomi Lilly*, 10 ECAB 560, 573 (1957).

⁹ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

¹⁰ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

The decisions of the Office of Workers' Compensation Programs dated September 12, May 15 and January 24, 1996 are affirmed.

Dated, Washington, D.C.
February 1, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member