

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAMELA K. HARDEE and U.S. POSTAL SERVICE,
POST OFFICE, Cheyenne, WY

*Docket No. 99-105; Submitted on the Record;
Issued September 13, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation benefits on November 8, 1997.

On February 21, 1985 appellant, then a 32-year-old mail distribution clerk, filed a claim for an occupational disease alleging that she sustained carpal tunnel syndrome from keying on the machines. The Office accepted appellant's claim for carpal tunnel syndrome, right carpal tunnel release and aggravation of preexisting depression. Appellant worked intermittently, underwent carpal tunnel release on March 1, 1985, returned to work for intermittent periods, and stopped working in October 1988. The Office paid appellant temporary total disability compensation commencing for the appropriate time periods and placed appellant on the periodic rolls.

In a report dated May 17, 1997, Dr. Robert G. Weiner, a Board-certified orthopedist and a second opinion physician, considered appellant's history of injury, performed a physical examination and reviewed a magnetic resonance imaging scan dated April 13, 1988 which was normal. He diagnosed status post carpal tunnel syndrome with total resolution of all symptoms and marked functional overlay with pathological levels of depression. Dr. Weiner stated that there were no objective findings to substantiate appellant's subjective upper extremity symptoms of aching, paresthesias and weakness. He opined that appellant's basic pathology was on a psychological basis, not on a structural or organic basis and that there was no evidence of any residual from her carpal tunnel syndrome. Dr. Weiner stated that "from a purely objective standpoint," appellant could return to work although she might require psychiatric treatment to enable her to work but her psychological problems were outside his field of expertise.

In a report dated August 28, 1997, Dr. Jeffrey L. Metzner, a Board-certified psychiatrist and neurologist and second opinion physician, considered appellant's history of injury, performed a mental status examination and diagnosed depressive disorder, chronic pain disorder associated with psychological factors and a general medical condition and a personality disorder

not otherwise specified. He opined that appellant's depressive disorder was not presently aggravated by factors related to the February 6, 1985 employment injury and that appellant was not disabled from her position as a mail distribution clerk as a result of her depressive disorder. Dr. Metzner stated that appellant's depressive disorder was well controlled with the use of anti-depressant medications. He further opined that appellant's depressive disorder and pain disorder were related, in part, to her work injury although both disorders were also related to her chronic back problems. Dr. Metzner stated that appellant would have difficulties adapting to stressful work situations but the difficulties were not work related as her personality disorder was a preexisting condition.

In a report dated October 21, 1997, Dr. John W. Fries, a psychiatrist with a subspecialty in obstetrics and gynecology, considered appellant's history of injury, performed a mental status examination and diagnosed major depressive disorder versus chronic pain. He stated, "Rule out other problems such as malingering, chronic factitious disorder with physical and/or psychiatric psychological presentations" and "Rule out personality disorder not otherwise specified with histrionic and possibly other problems." Dr. Fries stated, "I can [no]t really tell at this time psychiatrically, or if she does have anything significant or if there is factitious malingering or other problems going on." He stated that he would like to have some psychological testing to help substantiate, confirm or contradict a depressive disorder.

In an undated letter received by the Office on October 21, 1997, Dell Hoff, the President of the local chapter of the American Postal Workers' Union, described that appellant's work environment was hostile to employees and worsening.

By decision dated November 7, 1997, the Office terminated benefits effective November 8, 1997 stating that the weight of the current medical evidence establishes that there were no objective findings of disabling residuals resulting from the February 6, 1985 employment injury.

By letter dated November 17, 1997, appellant requested an oral hearing before an Office hearing representative which was held on June 1, 1998. At the hearing, appellant gave her history of employment and medical treatment. Appellant testified that she did not have emotional problems prior to February 1985 and that she believed they resulted from the pain and physical limitations of her carpal tunnel syndrome. Appellant also testified that her husband whom she had divorced could not deal with her being disabled and stalked her. She testified that she was harassed at work for performing light work and this also contributed to her emotional condition. Appellant testified that she continued to suffer great pain in her wrists, was very limited in being able to perform household chores, and that she could hardly use the right hand at all and had no grip with it. She testified that her left hand was becoming as bad as her right hand.

Appellant submitted additional evidence including a report from Dr. John Barrasso, a Board-certified orthopedic surgeon, dated October 15, 1997 and the October 21, 1997 report from Dr. John W. Fries which she had previously submitted. In his October 15, 1997 report, Dr. Barrasso considered appellant's history of injury, performed a physical examination and diagnosed continued bilateral carpal tunnel syndrome and chronic pain syndrome. He noted that

she had positive Tinel's test bilaterally, positive Phalen's test bilaterally and positive median nerve compression test bilaterally.

By decision dated August 12, 1998, the Office hearing representative affirmed the Office's November 7, 1997 decision.

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits. 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.¹ The Office's burden of proof includes the necessity of furnishing rationalized medical evidence based on a proper factual and medical background.²

In the present case, the opinions of the referral physicians, Dr. Metzner and Dr. Weiner, establish that appellant recovered from her carpal tunnel syndrome and is not disabled due to her depression. In his August 28, 1997 report, Dr. Metzner opined that appellant's depressive disorder and pain disorder were related, in part, to her February 21, 1985 employment injury but stated that appellant was not disabled from her position as a mail distribution clerk as a result of her depressive disorder. He stated that appellant's depressive disorder was well controlled with anti-depressant medications. Dr. Metzner stated that appellant would have difficulties adapting to stressful work situations but the difficulties were not work related as her personality disorder was a preexisting condition.

In his May 17, 1997 report, Dr. Weiner diagnosed status post carpal tunnel syndrome with total resolution of all symptoms and marked functional overlay with pathological levels of depression. He found no objective findings to substantiate appellant's subjective upper extremity symptoms of aching, paresthesias and weakness. Dr. Weiner opined that appellant's basic pathology was on a psychological basis, not on a structural or organic basis and that there was no evidence of any residual from her carpal tunnel syndrome. He stated that appellant could return to work although she might require psychiatric treatment to overcome her psychological problems but that was beyond his field of expertise.

Dr. Metzner's and Dr. Weiner's opinions are complete and well rationalized. Dr. Metzner found appellant's depression did not prevent her from performing her work and Dr. Metzner found that orthopedically, there was no objective evidence of appellant's carpal tunnel syndrome and she could return to work. Dr. Fries October 21, 1997 opinion in which he diagnosed depressive disorder versus chronic pain is not probative because it is ambiguous and equivocal in that he stated he needed to rule out certain conditions such as malingering, chronic factitious disorder and personality disorder and did not address whether appellant was disabled.³ He stated that he was unable to tell psychiatrically whether appellant had a significant condition. In his October 15, 1997 report, Dr. Barrasso diagnosed continued bilateral carpal tunnel

¹ *Wallace B. Page*, 46 ECAB 227, 229-30 (1994); *Jason C. Armstrong*, 40 ECAB 907, 916 (1989).

² *Larry Warner*, 43 ECAB 1027, 1032 (1992); *see Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

³ *See William S. Wright*, 45 ECAB 498, 504 (1994); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

syndrome and chronic pain syndrome but did not provide a rationalized medical opinion explaining how these conditions were related to appellant's February 21, 1985 employment injury and did not address whether appellant was disabled from performing her job. Therefore, his opinion is also not probative.⁴ There is no other recent medical evidence in the record to support appellant's claim that she continues to be disabled from her carpal tunnel syndrome and depression. Drs. Weiner's and Metzner's opinions justify the Office's termination of benefits.

The decisions of the Office of Workers' Compensation Programs dated August 12, 1998 and November 7, 1997 are hereby affirmed.

Dated, Washington, D.C.
September 13, 1999

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁴ See *Larry Warner*, *supra* note 2 at 1032.