

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CANDACE E. SMITH and U.S. POSTAL SERVICE,
POST OFFICE, Vancouver, WA

*Docket No. 00-892; Submitted on the Record;
Issued April 17, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

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

Appellant, a 40-year-old letter carrier, filed a notice of occupational disease on April 9, 1998 alleging that on December 1, 1996 she realized that her wrist and forearm strains were caused by repetitive motions at work. The Office accepted appellant's claim for bilateral wrist strains on August 6, 1998.¹

On April 2, 1999 the Office proposed terminating appellant's compensation benefits on the grounds that she was no longer disabled. By decision dated May 3, 1999, the Office terminated appellant's compensation. Appellant requested an oral hearing, and by decision dated November 9, 1999, the hearing representative affirmed the Office's May 3, 1999 decision.²

The Board finds that the Office met its burden of proof to terminate appellant's compensation.

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.³ 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

¹ The Office denied appellant's prior claim for carpal tunnel syndrome by decision dated September 9, 1997. As this decision was issued more than one year prior to the date of appellant's appeal to the Board on December 13, 1999, the Board will not consider this issue on appeal. 20 C.F.R. § 501.3(d)(2).

² Following the November 9, 1999 decision, appellant submitted additional evidence. As the Office did not consider this evidence in reaching a final decision, the Board will not review it for the first time on appeal. 20 C.F.R. § 501.2(c).

³ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

has ceased or that it is no longer related to the employment.⁴ Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁵ To 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.⁶

Appellant's attending physician, Dr. Lindsey Martinson, a Board-certified family practitioner, completed several reports providing appellant's permanent restriction. Dr. Martinson stated that appellant had full range of motion, minimal tenderness and no swelling. He stated that strength was normal in all muscle groups and that sensation was intact. Dr. Martinson noted that appellant had negative Tinel's sign, negative Phalen's test and negative Finkelstein's test.

In response to an Office inquiry regarding the findings in support of appellant's continued disability, Dr. Martinson stated, "This is a repetitive motion injury, and as such, pain is the major problem. Along with that is relative weakness. She has demonstrated a return of pain with return to her job despite good trials of physical therapy and continued home treatment."

The Office referred appellant for a second opinion evaluation with Dr. Samuel Scheinberg, a Board-certified orthopedic surgeon. In his March 12, 1999 report, Dr. Scheinberg noted appellant's history of injury and performed a physical examination. He stated that appellant did not give her best effort on active range of motion and that motor strength was within normal limits. Dr. Scheinberg stated that appellant demonstrated obvious giving way on strength testing and that her responses on two-point discrimination were not valid. He concluded that appellant had no objective findings to support bilateral wrist strains and diagnosed chronic intermittent pain and numbness in the upper extremities of unknown etiology. Dr. Scheinberg noted that appellant's pattern of complaints did not fit within normal anatomy.

In a report dated July 12, 1999, Dr. Donald H. Tilson, a physician Board-certified in preventative medicine, noted appellant's history of injury including the work factors to which she attributed her condition. He performed a physical examination and diagnosed "bilateral wrist strain -- repetitive motion injury WC."

The Board finds that the weight of the evidence rests with the detailed report of Dr. Scheinberg, the second opinion physician. Dr. Scheinberg provided his findings on physical examination including the invalidity of several tests and concluded that appellant had no objective findings to support the continuing diagnosis of bilateral wrist strain.

Appellant's attending physician, Dr. Martinson, failed to provide any physical findings or medical reasoning in support of his diagnosis and conclusion. Due to the lack of objective physical findings and medical rationale, Dr. Martinson's reports are not sufficient to create a conflict with the detailed and well-reasoned report of Dr. Scheinberg.

⁴ *Id.*

⁵ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁶ *Id.*

Dr. Tilson failed to provide an opinion on the causal relationship between appellant's condition and her employment. He instead repeated appellant's assertions that her condition was employment related. Without a rationalized opinion on the causal relationship between appellant's diagnosed condition of bilateral wrist sprain and the factors of employment listed, his report is not sufficient to create a conflict with Dr. Scheinberg's report negating causal relationship.

As the weight of the medical evidence establishes that appellant has no objective findings supporting a diagnosis of bilateral wrist sprain, the Office properly terminated her compensation benefits for this condition.

The November 9, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 17, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member