

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANDRE CATHEY and U.S. POSTAL SERVICE,
GENERAL MAIL CENTER, Los Angeles, CA

*Docket No. 00-1835; Submitted on the Record;
Issued April 10, 2001*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly terminated compensation for wage loss as of March 29, 2000.

On March 15, 1999 appellant, then a 39-year-old mailhandler, filed a traumatic injury claim alleging that he sustained a right leg injury when an "electric mule" backed into his leg. The Office accepted the claim for right leg laceration. Appellant returned to a full-time limited-duty position in April 1999, then began working four hours a day as of June 19, 1999. By letter dated February 14, 2000, the Office notified appellant that it proposed to terminate compensation for wage loss on the grounds that his employment-related disability had ceased. By decision dated March 29, 2000, the Office terminated compensation for wage loss.

The Board finds that the Office met its burden of proof to terminate compensation for wage loss on March 29, 2000.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation. After it has been determined that an employee has disability causally related to his employment, the Office may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.¹

The record contains a report, dated December 2, 1999, from Dr. Ibrahim Yashruti, a Board-certified orthopedic surgeon serving as a second opinion physician, who provided a history, review of medical records and results on examination and indicated that appellant reported subjective leg pain, with no objective findings. He noted that appellant had normal findings on physical examination, with a negative neurological examination. Dr. Yashruti opined that appellant was capable of performing his date-of-injury duties as a mailhandler.

¹ *Patricia A. Keller*, 45 ECAB 278 (1993).

The record does not contain a reasoned medical opinion that appellant continued to be disabled because of his 1999 employment injury. In a form report (Form CA-20a) dated February 4, 2000, Dr. Paul Castillo, an attending occupational medicine specialist, diagnosed chronic right lower extremity pain and indicated appellant should continue permanent restrictions. Dr. Castillo found appellant's right leg examination to be negative and did not explain his diagnosis or address the issue of causal relationship. In a form report dated February 7, 2000, Dr. George Afram, an orthopedic surgeon, diagnosed right calf strain, but provided no reasoned opinion on causal relationship with the employment injury or disability for work.² In a narrative report dated March 8, 2000, Dr. John Shen, a physical medicine specialist, diagnosed "right lower extremity trauma, apparently no specific etiology has been found to explain his subjective discomfort and pain."

The Board finds no probative medical opinion evidence, based on a complete and accurate background, supporting a continuing employment-related disability. Accordingly, the Board finds that the weight of the evidence rests with Dr. Yashruti, who provided a reasoned opinion, based on a complete background, that appellant could perform his date-of-injury position. The Office therefore met its burden of proof in terminating compensation for wage loss.

The March 29, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
April 10, 2001

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

² Dr. Afram indicated that appellant was totally disabled January 23 and 24, 2000, without further explanation.