U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA T. BROWN and DEPARTMENT OF THE ARMY, NUTRITION CARE DIVISION, Fort Gordon, GA

Docket No. 00-845; Submitted on the Record;
Issued March 1, 2001

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS, MICHAEL E. GROOM

The issue is whether appellant is entitled to a schedule award for her accepted condition.

On September 28, 1992 the Office of Workers' Compensation Programs accepted appellant's condition for sciatica. It was found that appellant's back injury was caused by her federal employment as a dishwasher for the employing establishment when she picked up a large mixing bowl and injured her back.

This is the second appeal of this case to the Board. By decision dated October 1, 1999, the Board found that the Office improperly refused to reopen appellant's claim for a merit review, regarding the issue of a schedule award. The Board stated: "a claimant may seek an increased schedule award if the evidence establishes that she sustained an increased impairment at a later date causally related to her employment injury.[1] The Board found that appellant had submitted medical evidence regarding permanent impairment at a date subsequent to the prior schedule award decision and remanded the case to the Office for further review.[2] The decision of the Office dated September 24, 1997 was set aside and the case was remanded to the Office.

By decision dated November 16, 1999, the Office again denied appellant's claim for a schedule award, yet granted appellant medical benefits for her accepted injury. The Office stated that all the medical evidence of record was considered, including the new evidence submitted from Dr. James D. McInnis, general practitioner, dated March 10, 1997, which diagnosed an impairment of 25 percent for both upper and lower extremities. The Office found that Dr. McInnis did not sufficiently explain the objective findings that caused impairment to her upper and lower extremities nor did he explain causal relationship. The Office also noted that the Federal Employees' Compensation Act does not provide schedule award compensation for impairment to the spine.

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[1] *Paul R. Reedy*, 45 ECAB 488 (1994).

[2] *Linda T. Brown*, Docket No. 98-498 (issued October 1, 1999).

The Board finds that appellant has not established that she is entitled to a schedule award for her accepted condition.

The schedule award provision of the Act[3] and its implementing regulations[4] set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of specified members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.[5]

The Board notes that neither the Act nor the implementing federal regulations provide for the payment of a schedule award for loss of use of the back or spine.[6] Schedule awards maybe payable if there is impairment to the upper or lower extremities attributable to a back or spinal condition.

The evidence required to establish causal relationship is rationalized medical opinion evidence, based on complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.[7]

The only medical evidence of record which concludes that appellant has an employment-related impairment of the extremities is the medical opinion of Dr. McInnis. The Board has held that a physician's opinion is not dispositive simply because it is offered by a physician.[8] To be of probative value to appellant's claim, the physician must provide a proper factual background and must provide medical rationale which explains the medical issue at hand, be that whether the current condition is disabling or whether the current condition is causally related to the accepted employment injury. Where no such rationale is present, the medical opinion is of diminished probative value.

[3] 5 U.S.C. § 8107.

[4] 20 C.F.R. § 10.404.

[5] *Kenneth Tappen*, 49 ECAB 334 (1998).

[6] *Pamela J. Darling*, 49 ECAB 286 (1998).

[7] *Linda S. Jackson*, 49 ECAB 486 (1998).

[8] *Michael Stockert*, 39 ECAB 1186 (1988).

In this case, the medical report from Dr. McInnis dated March 10, 1997 and the letter from Dr. McInnis dated December 17, 1997, estimated that appellant had a 25 percent impairment of each upper and lower extremity, but did not offer a diagnosis regarding appellant's extremities or explain why her impairments would be caused by the accepted sciatica condition. The March 10, 1997 report stated:

> "[Appellant] was working with pots and pans and lifted a rather heavy pan and as she twisted she had pain suddenly that radiated down into her leg and up into her arm on the left side. Later, she began having problems with her right side as well. [Appellant] has been through multiple evaluations and treatment over the years, appears to have stabilized now and has significant impairments involving the upper and lower extremities as a result of the nerves coming from the neck and back."

In the December 17, 1997 memorandum, Dr. McInnis stated:

> "[Appellant's] studies show abnormalities in both the cervical/thoracic and lumbosacral regions which when one reviews the medical records, suggests strongly that these are traumatically induced as opposed to just a degenerative process…. This review of her records, in my opinion, does show a direct cause or relationship of the on[-]the[-]job injury of the abnormal findings both in the cervical/thoracic and lumbosacral spine regions."

Dr. McInnis' reports are of diminished probative value since they do not offer a diagnosis as to the conditions of appellant's upper and lower extremities or explanation of permanent impairment. Dr. McInnis failed to fully address why or how appellant's extremity conditions were related to the accepted cervical injury. Furthermore, Dr. McInnis never provided any findings describing the nature and degree of appellant's impairment, pursuant to the A.M.A., *Guides*. A conclusory statement without supporting rationale is of little probative value.[9] Dr. McInnis' conclusory statements regarding the degree of appellant's impairments are not sufficient to rate appellant's impairments pursuant to the A.M.A., *Guides*.

[9] *Marilyn D. Polk*, 44 ECAB 673 (1993).

The decision of the Office of Workers' Compensation Programs dated November 16, 1999 is hereby affirmed.[10]

Dated, Washington, DC
March 1, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

[10] It should be noted that appellant is still entitled to receive medical benefits as decided by the Office in its November 16, 1999 decision.