

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PETER R. KACHANIS and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Warwick, R.I.

*Docket No. 97-213; Submitted on the Record;
Issued October 28, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issues are: (1) whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation benefits effective May 28, 1995; (2) whether the Office properly terminated appellant's authorization for medical treatment effective May 28, 1995; and (3) whether appellant has established that he has continuing disability causally related to his January 27, 1986 employment injury.

In the instant case, the Office accepted that appellant sustained mild to moderate cervical spasms, acute lumbar and cervical strain and psychogenic pain disorder secondary to his January 27, 1986 motor vehicle accident. The Office placed appellant on the periodic rolls effective January 4, 1987.

As the record contained no contemporary medical evidence,¹ on November 22, 1994 the Office referred appellant, together with the case record and a statement of accepted facts, to Dr. James G. Manson, a Board-certified orthopedic surgeon, and Dr. J. Peter Strang, a Board-certified psychiatrist, for second opinion evaluations. Based on the reports of Drs. Manson and Strang, the Office proposed to terminate appellant's compensation benefits by letter dated March 2, 1995. In response to the Office's proposed termination of benefits, appellant, in a letter dated April 19, 1995, stated that his attending physician, Dr. Barry, had retired in December 1993. By decision dated May 11, 1995, the Office terminated appellant's compensation benefits effective May 28, 1995 on the grounds that he had no further disability due to his employment injury.

Appellant requested a hearing before an Office hearing representative. At the hearing, held on January 25, 1996, appellant maintained that he continued to have a psychological condition due to his employment injury and that he sustained carpal tunnel syndrome causally related to his January 27, 1986 employment injury. Appellant further submitted additional

¹ The Office received the last report from Dr. David M. Barry, appellant's attending physician, in January 1992.

medical evidence. By decision dated June 20, 1996, the Office hearing representative affirmed the Office May 11, 1995 termination of compensation, finding that appellant had no further employment-related disability after May 28, 1995.

The Board has duly reviewed the case on appeal and finds that the Office met its burden of proof to terminate appellant's compensation benefits effective May 28, 1995.

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.² The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.³ The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁴

The Office accepted appellant's claim for mild to moderate cervical spasms, acute lumbar and cervical strains and psychogenic pain disorder. The Office thus has the burden of proof to justify termination of compensation for these conditions.

The contemporaneous medical evidence establishes that appellant had no further employment-related disability effective May 28, 1995. In his detailed report dated December 12, 1994, Dr. Manson discussed appellant's history of injury, current symptoms, and listed findings on examination. He diagnosed resolved strain/sprain of the cervical and lumbar spine and a resolved contusion and strain of the left knee and attributed these conditions to appellant's employment injury. Dr. Manson opined that the employment-related conditions had resolved within six to nine months from the date of injury based on his knowledge of such conditions and his review of appellant's medical records. He further diagnosed, *inter alia*, carpal tunnel syndrome, and opined that it was not related to his employment injury, stating, "There were no documents or evidence presented that he had sustained bony injuries to his wrists at the time of the injury which could possibly account for the acute onset of bilateral carpal tunnel syndrome." Dr. Manson concluded, "Specifically from the point of view of his work[-]related injuries *per se*, I see no reason why he should not be able to do his regular employment."

In a psychiatric evaluation dated December 12, 1994, Dr. Strang diagnosed a possible chronic somatoform pain disorder. He stated:

"In this case, there are no actual psychiatric impairments. There are complaints of chronic pain and there are important behavioral and motivational issues but there is no significant psychiatric impairment or limitation of mentation or emotional functioning and there is no psychosis."

² Charles E. Minniss, 40 ECAB 708, 716 (1989); Vivien L. Minor, 37 ECAB 541, 546 (1986).

³ *Id.*

⁴ See Del K. Rykert, 40 ECAB 284, 295-96 (1988).

Dr. Strang noted that appellant did not view himself as depressed or with decreased psychological capacity. He opined that from a psychiatric standpoint appellant had no restrictions from performing any full-time employment.

The Board has carefully reviewed the opinions of Drs. Manson and Strang and finds that as these physicians based their reports on a complete and accurate factual background and supported their conclusions with medical rationale, their reports constitute the weight of the medical evidence. The Office therefore met its burden of proof to terminate appellant's compensation benefits effective May 28, 1995.

The Board further finds that the Office properly terminated appellant's authorization for medical treatment.

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.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. The Office met this burden through the reports of Drs. Manson and Strang, who found that appellant had no residual conditions caused by his employment injury.

The Board further finds that appellant has not established that he has continuing disability causally related to his January 27, 1986 employment injury.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that he had disability causally related to his accepted employment conditions.⁶ To establish a causal relationship between the claimed disability and the employment injury, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.⁷

Subsequent to the Office's termination of his compensation benefits, appellant submitted a report dated May 16, 1995 from Dr. James E. McLennon, a Board-certified neurosurgeon who diagnosed degenerative disease of the cervical spine and stated:

"I believe that, despite orthopedic opinions that his physical capacity is not bad, which I agree, that [appellant] may have been falsely removed from the comp[ensation] rolls because of post[-]traumatic psychological disability, from which he appears to still suffer."

Dr. McLennon's opinion supports a finding that appellant has no further orthopedic residuals from his January 1986 employment injury. His opinion that appellant may have

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

⁶ *George Servetas*, 43 ECAB 424, 430 (1992).

⁷ *John M. Tornello*, 35 ECAB 234 (1983).

psychological problems is of little probative value in view of his standing as a neurosurgeon rather than a psychiatrist or psychologist.

Appellant further submitted a report dated June 5, 1995 from Justin M. Nash, Ph.D. Dr. Nash opined that appellant's original psychiatric problem which resulted from his January 1986 injury "might never have resolved." He found that the results of psychological testing in 1986 and 1994 revealed similar levels of distress which suggested "either that the original psychiatric pain disorder resolved and a strikingly similar one then developed or that there never was a resolution of the original psychiatric pain disorder." Dr. Nash theorizes that appellant's psychological condition due to his employment injury may not have resolved; however, as his opinion is speculative and inconclusive in nature, it is insufficient to establish any disability due to the accepted employment injury.⁸ As appellant has failed to present sufficient rationalized medical evidence establishing that he has any current condition or disability causally related to his accepted employment injury, he has not met his burden of proof.

The decision of the Office of Workers' Compensation Programs dated June 20, 1996 is hereby affirmed.

Dated, Washington, D.C.
October 28, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁸ *Connie Johns*, 44 ECAB 560 (1993).