

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROLYN A. TAYLOR and U.S. POSTAL SERVICE,
POST OFFICE, Silver Spring, MD

*Docket No. 00-1637; Submitted on the Record;
Issued March 2, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant's disability related to her July 25, 1996 employment injury ceased by October 28, 1996.

On February 2, 1995 appellant, then a 33-year-old letter carrier, filed a claim for an injury to her back sustained on that date when a chair she sat in broke. The Office of Workers' Compensation Programs accepted that she sustained a back contusion and she received continuation of pay. Appellant returned to limited duty on March 28, 1995.

On August 15, 1996 appellant filed a claim for an injury to her low back, right hip and buttocks and right knee sustained on July 25, 1996. She stated that she was going up and down steps and her back began hurting. Appellant stopped work on July 26, 1996 and returned to limited duty on October 29, 1996 for four hours per day.

By decision dated January 21, 1997, the Office found that the evidence failed to establish that appellant's claimed condition and disability were causally related to her alleged July 25, 1996 employment injury. She requested a hearing and an Office hearing representative, by decision dated July 10, 1997, found that the reports of appellant's attending physician, Dr. Vinu Ganti, a Board-certified internist, "provided little medical rationale for his opinion, [but] he has unequivocally stated that the claimant's condition was related to her employment duties and there is no medical opinion evidence of record to refute his opinion." The Office hearing representative found that appellant had submitted sufficient evidence to warrant further development of the claim and remanded the case for preparation of a statement of accepted facts and referral of appellant to a Board-certified specialist for a rationalized medical opinion on appellant's disability due to an employment-related condition.

On August 29, 1997 the Office referred appellant, a statement of accepted facts and the case records for both appellant's injuries, to Dr. Louis Levitt, a Board-certified orthopedic surgeon. In a report dated September 11, 1997, he set forth appellant's history, complaints and findings on examination. Dr. Levitt stated:

"We have a middle aged female who fell out of a chair at work in February 1995 and developed back pain. [Appellant] was treated conservatively and was ultimately able to return to work. However, she candidly admits that she did experience occasional back pain. However, [appellant's] back symptoms were exacerbated in July 1996 when her letter route was changed and the new route was much more demanding in her work activities. The exacerbation of back pain was treated with multiple modalities of management, including physical therapy, chiropractic adjustments, acupuncture, trigger point injections and various medications. She reports no change in her symptoms in spite of the treatment received to date. [Appellant's] physical examination is quite unremarkable with respect to her musculoskeletal system. I can identify no evidence of active pathology referable to her spine or extremities and there is no evidence of discogenic back disease or an acute lumbar radiculopathy. What is quite clear is that [appellant] is grossly overweight. I believe her obesity, more than any other single factor, contributes to the persistence of any subjective distress she experiences to the lumbar spine. It is also quite clear that [appellant] tends to exaggerate her symptomatology. Aspects of her exam[ination] confirm that there is a very large functional overlay which currently drives her symptom complex.

"[Appellant's] positive Waddell's rotation test, axial loading the cervical spine producing low back pain, withdrawal to light touch to the skin of the back, a stocking distribution in numbness to her right leg and increasing pain on flexion to her hips and knees are all findings compatible with inorganic disease. It is my very firm opinion that [she] has more than adequately reached the maximum medical improvement following the exacerbation of her back pain in July 1996. In the absence of any measurable or detectable pathology, there is no justification for continuing treatment. There is little explanation why [appellant] is in a formal pain management program. There is no justification for continuing formal rehab[ilitation] of any type, including trigger point injections. She needs to lose weight and commit herself to a home program of stretching, strengthening and conditioning exercises to manage any occasional discomfort she experiences from time to time. In the absence of any significant pathology, [appellant] has the ability to return to work immediately as a letter carrier without restrictions in her work activities. Again, I want to indicate that there was a quality to her presentation today to suggest that she exaggerates her symptoms and she perceives herself as being ill in the absence of any measured pathology. [Appellant's] current treating physician's management serves only to protract her treatment course and reinforce [her] nonfunctional behavior.... One final note: it is my overall impression that [her] treatment has extended over a much longer period of time than one would have expected given the mechanism of her reoccurrence. Within 8 to 12 weeks of [appellant's] recurrence of back pain in July 1996, I would have expected that she would have been amply treated and

could return to work. There is little explanation for her remaining out of gainful employment for the past nine months.”

In response to an Office request for a supplemental report containing a diagnosis of any employment-related conditions, Dr. Levitt stated in a November 17, 1997 report:

“[Appellant’s] diagnosis was a simple muscular strain to her back and a contusion to her coccyx. Such an injury should have required no more than 8 [to] 12 weeks totally for completing treatment. Within three months of her original injury, specifically by May 1995, [she] reached the maximum medical improvement and treatment beyond that seemed unnecessary. [Appellant] did report an exacerbation of her distress on July 25, 1996. She reports an increase in her back pain while handling her day-to-day activities. This represented a simple muscular strain from over-exertion. Although [appellant] views this recurrence as an exacerbation of previous injury, I would simply view the July 25, 1996 complaints of back pain as a new event. Once again, given the mechanism of her injury, her diagnosis would have been a simple muscular strain and treatment should have been completed within 4 [to] 6 weeks.”

By letter dated December 11, 1997, the Office advised appellant that it had accepted that she sustained a contusion to her coccyx and a back contusion on February 2, 1995 and a muscular strain to her back on July 25, 1996 from which disability should have resolved within four to six weeks. The Office authorized payment of continuation of pay from July 26 to September 8, 1996 and paid compensation for temporary total disability from September 8 to October 28, 1996. By decision dated December 11, 1997, the Office found that the weight of the medical evidence was represented by the reports of Dr. Levitt and that appellant was no longer disabled due to the accepted condition.

Appellant requested reconsideration and submitted additional medical evidence. By decision dated May 12, 1998, the Office found that the additional evidence contained no medical rationale and was not sufficient to warrant modification of its prior decision. By letter dated February 1, 1999, appellant again requested reconsideration and submitted an additional medical report from Dr. Ganti. By decision dated June 1, 1999, the Office found that Dr. Ganti’s report did not contain rationale and was not sufficient to warrant modification of its prior decisions.

Once the Office accepts 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 fact that the Office accepts a claim for a specified period of disability does not shift the burden of proof to the claimant. The burden of proof is on the Office with respect to the period subsequent to the date when compensation is terminated or modified.²

¹ *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

² *George J. Hoffman*, 41 ECAB 135 (1989).

The reports of Dr. Levitt, a Board-certified orthopedic surgeon, are sufficient to meet the Office's burden of establishing that appellant's employment-related disability ended by October 28, 1996. He concluded that on July 25, 1996 appellant sustained a simple muscle strain from over-exertion and stated that he would expect appellant to return to work within 8 to 12 weeks of this incident. Dr. Levitt explained why he did not consider appellant to have any continuing employment-related disability: he pointed to specific findings on examination that were compatible with inorganic disease, noted that appellant had no evidence of active pathology of her spine or extremities, reported a functional overlay and attributed appellant's subjective distress to her obesity.

Following the receipt of Dr. Levitt's report the Office authorized continuation of pay beginning July 26, 1996 and paid compensation for temporary total disability until October 28, 1996. On the following day, October 29, 1996, appellant returned to work, although only for four hours per day.

Appellant's attending physicians have not provided rationale explaining why they believe appellant's disability after October 28, 1996 is causally related to her employment injuries.³ Dr. P. Singh Ajrawat did not provide any rationale for the opinion that appellant had a myofascial pain disorder secondary to her July 25, 1996 injury. Dr. Ganti stated in a January 16, 1997 report: "Since [appellant] used to carry bags on her right side, it was felt that all her pain on the right was related to carrying heavy bags during her postal delivery." In a report dated September 15, 1998, Dr. Ganti diagnosed moderate lumbar sprain/strain, patellofemoral syndrome and right hip pain and stated: "It is my impression that there is a direct causal relationship between the above-documented injuries and the injury of July 25, 1996. The injuries are consistent with the type of trauma described by [appellant]." While these reports provide some rationale for the proposition that appellant was injured on July 25, 1996, they do not provide any explanation or rationale for why her condition continued to be related to her July 25, 1996 employment injury 6 months and 18 months later. As Dr. Levitt explained why he believed appellant's employment-related disability ended within three months, his opinion constitutes the weight of the medical evidence on the question of continuing disability.

³ Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

The decision of the Office of Workers' Compensation Programs dated June 1, 1999 is affirmed.

Dated, Washington, DC
March 2, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member