

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of VALERIE L. WATFORD and FEDERAL JUDICIARY,  
3RD CIRCUIT COURT OF APPEALS, Philadelphia, PA

*Docket No. 00-474; Submitted on the Record;  
Issued November 1, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly denied further treatment as of September 18, 1998, causally related to her January 5, 1993 carpal tunnel injury.

The Office accepted that appellant, then a 40-year-old pretrial clerk, sustained bilateral tenosynovitis and left carpal tunnel syndrome causally related to her work duties. Appellant was paid appropriate compensation for wage loss and underwent a left carpal tunnel release on August 4, 1994.

Following appellant's surgery, the Office referred her, a statement of accepted facts and the relevant case record to Dr. Bong S. Lee, a Board-certified orthopedic hand surgeon, to resolve a conflict in medical opinion on whether the surgery was medically appropriate.<sup>1</sup>

By report dated February 1, 1995, Dr. Lee advised the Office of his physical examination results which included a well-healed surgical scar, no keloid formation, no sensitivity over the area, no deformities, no noticeable swelling or atrophy, full range of digit motion, no locking or triggering, and no local tenderness of any of the extensor compartments of flexor tendon sheaths. Dr. Lee found that normal bilateral hand sensory tests and discrimination, and negative Tinel's sign, Finklestein's test and Phalen's test. He diagnosed resolved carpal tunnel syndrome of the left hand. Dr. Lee commented that appellant had had an excellent surgical result and was no longer disabled as a result.

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<sup>1</sup> The Office had previously referred appellant to Dr. Lee on July 26, 1994, but appellant had failed to keep the appointment.

On a March 8, 1995 work capacity evaluation, Dr. Lee opined that appellant had reached maximum medical improvement on January 23, 1995 and could work eight hours a day with restricted use of her left hand for fewer than two hours a day.<sup>2</sup>

On March 25, 1995 the Office issued a notice of proposed termination of compensation and medical benefits finding that the weight of the medical evidence established that appellant no longer had any residuals of her employment injuries. The Office advised appellant that she had 30 days within which to submit additional evidence or argument.

By decision dated August 7, 1995, the Office terminated appellant's compensation, based on the reports of Dr. Leonard A. Bruno, a Board-certified neurosurgeon and Dr. Lee, establishing that she had no further disability, causally related to her January 5, 1993 employment injuries.

On August 16, 1995 appellant requested an oral hearing. By decision dated January 22, 1996, the hearing representative set aside the Office's August 7, 1995 decision and remanded the case for further development, finding that Dr. Lee's recommendation that appellant begin working modified duties was inconsistent with his opinion that appellant's work-related injury had resolved.

On February 9, 1996 the Office received a January 2, 1996 report from Dr. Bruno who had performed appellant's surgery. He stated that appellant did "have some residual from chronic carpal tunnel syndrome on the left side and that if she were to return to work at this time, she would have to be limited in terms of the number of hours that she could [be] expected to do typing or keyboard work, and therefore would have to return to work in a modified duty position, which in my opinion would be a permanent work restriction."

In a supplemental report dated February 8, 1996, Dr. Lee stated that appellant's "carpal tunnel syndrome has completely resolved with no residuals at this time." He continued: "Therefore, she would be able to return to her duties as a pretrial clerk. However, I gave her a general precaution that for perhaps the first few weeks after her return to work she should be restricted from repetitive motions of her hands to prevent any recurrent problems."

In a report dated February 22, 1996, Dr. Bruno noted appellant's present impairment as "left hand numbness" and permanent effects as "none." He indicated that appellant could expect "full recovery with additional PT [physical therapy]."

By decision dated March 4, 1996, the Office terminated appellant's compensation finding that the weight of the medical evidence established that her work-related disability had ceased effective March 4, 1996.

By letter dated March 6, 1996, appellant requested an oral hearing on the March 4, 1996 decision.

By decision dated September 3, 1996, the hearing representative again set aside the Office's decision and remanded the case for further development. The hearing representative

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<sup>2</sup> Appellant was terminated from her employment effective February 24, 1995.

found a new conflict in medical evidence between Drs. Lee and Bruno over whether appellant had any further disability causally related to her accepted employment-related conditions.

On October 3, 1996 the Office referred appellant, a statement of accepted facts, questions to be addressed and the relevant case record to Dr. Andrew B. Sattel, a Board-certified orthopedic hand surgeon, for an impartial medical examination.

On October 24, 1996 appellant submitted several reports from Dr. Maxwell Stepanuk, an osteopathic orthopedic surgeon, dated May 22, June 5, June 26 and September 4, 1996. Dr. Stepanuk diagnosed left cervical sprain and strain, C6-7 left radiculopathy, degenerative disc disease with protrusions and herniation at C6-7, left levator scapulae tendinitis, peritendinitis of the left shoulder, possible recurrent left carpal tunnel syndrome, left trapezoid myositis and left upper extremity radiculopathy. However, Dr. Stepanuk noted that electromyographic (EMG) studies showed no sign of recurrent carpal tunnel syndrome.

A November 14, 1996 left shoulder magnetic resonance imaging (MRI) showed deltoid/subacromial bursitis, moderate narrowing of the acromial arch due to over growth of the acromioclavicular joint and position of the inferior acromion and a small acromial spur.

In a report dated December 4, 1996, Dr. Sattel reviewed appellant's factual and medical history and the medical records presented, noted her present complaints, performed a complete and detailed physical examination with testing,<sup>3</sup> and opined that current physical findings were equivocal for evidence of median neuropathy, but that for the most part her objective findings were unremarkable. Dr. Sattel opined that appellant's subjective complaints were hard to explain that her objective results were mostly unremarkable, that appellant had reached maximum medical improvement and that no significant objective residuals were found.

Dr. Sattel opined that appellant could resume her secretarial position, and he completed a work capacity evaluation indicating that appellant could work eight hours a day with limits on heavy lifting, carrying and overhead reaching.<sup>4</sup> He added that at that time he did not review appellant's updated EMG/nerve conduction velocity studies as well as the MRI of appellant's shoulder, which he noted he would be happy to review.

By notice dated January 10, 1997, the Office advised appellant that it proposed to terminate her wage-loss compensation and medical benefits finding that she had no further disability or injury residuals requiring further medical treatment.

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<sup>3</sup> Dr. Sattel found that appellant had full neck mobility, no paracervical rigidity, unremarkable testing for brachial plexopathy, full range of elbow motion without tenderness, a negative Phalen's maneuver, an equivocal Tinel's maneuver, a negative Finklestein's maneuver and a negative scaphoid shift, unremarkable provocative maneuvers on the ulnar aspect of the wrist, no atrophy, intact two point discrimination testing, full digital and thumb mobility, and an inconsistent result on grip strength testing.

<sup>4</sup> Dr. Sattel noted that the overhead reaching prohibition was not work related but was related to tendinitis of the left shoulder.

By decision dated February 14, 1997, the Office terminated appellant's compensation effective February 14, 1997 finding that the medical evidence of record demonstrated that appellant had no residual effects of her work injury.

Submitted to the Office on February 18, 1997 was a January 28, 1997 report from Dr. Bruno which noted that appellant had "some mild chronic residual carpal tunnel syndrome on the left," and that he last saw her in January 1996. He opined that within a reasonable degree of medical certainty that as of January 2, 1996 appellant was capable of full-time sedentary work if the number of hours required for typing and keyboard work was four or less each day. He stated that this restriction would be permanent, but that appellant could improve further over time.

By letter dated March 3, 1997, appellant requested an oral hearing which was held on September 16, 1997.

On March 6, 1997 the Office received a June 21, 1996 EMG and nerve conduction study report showing abnormal paracervical nerve root irritation mainly at C6-7. The electrodiagnostic report noted that an EMG of appellant's left upper extremity was within normal limits.

By decision dated March 9, 1998 and finalized March 11, 1998, the hearing representative remanded the case for further development, finding that Dr. Sattel's report required clarification.

On April 8, 1998 the Office advised Dr. Sattel that the studies he had wanted to review would be forwarded to him.

By report dated August 3, 1998, Dr. Sattel stated: "I reviewed results of EMG/NCV from June 1996 and MRI reports. The EMG was negative for peripheral neuropathy, including carpal tunnel. This corresponds to my clinical examination on December 4, 1996. It is unremarkable for residuals of motion neuropathy."

By decision dated September 18, 1998, the Office again terminated appellant's compensation. By letter dated September 23, 1998, appellant requested another oral hearing which was held on March 24, 1999.

By decision dated June 28, 1999, the hearing representative affirmed the termination of appellant's compensation finding that the medical evidence of record established that she was no longer disabled for work due to the accepted carpal tunnel syndrome or had injury-related residuals requiring further medical treatment.

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

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>5</sup> After it has determined that an employee has disability

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<sup>5</sup> *Harold S. McGough*, 36 ECAB 332 (1984).

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.<sup>6</sup> Further, the right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for wage loss.<sup>7</sup> To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition that require further medical treatment.<sup>8</sup>

When the Office secures an opinion from an impartial medical specialist for the purpose of resolving a conflict in the medical evidence and the opinion from the specialist requires clarification or elaboration, the Office has the responsibility to secure a supplemental report from the specialist for the purpose of correcting a defect in the original report.<sup>9</sup> Where such clarification is required and is forthcoming, the opinion of the impartial specialist, if sufficiently well rationalized and based upon a proper factual background, is also entitled to special weight.<sup>10</sup>

In this case, Dr. Sattel's reports were based upon a proper factual and medical background, were thorough and well rationalized, and were supported by objective testing results, such that they are entitled to special weight. Accordingly, Dr. Sattel's opinion constitutes the weight of the medical evidence and establishes that appellant had no further disability for work or injury residuals requiring medical treatment after June 28, 1999.

Further, the reports appellant has submitted do not state that she has residual electrodiagnostic evidence of her work-related carpal tunnel or tenosynovitis but instead address conditions unrelated to the accepted conditions. Therefore, none of these reports are sufficient to overcome the special weight accorded an impartial medical examiner.

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<sup>6</sup> *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

<sup>7</sup> *Marlene G. Owens*, 39 ECAB 1320 (1988).

<sup>8</sup> *See Calvin S. Mays*, 39 ECAB 993 (1988); *Patricia Brazzell*, 38 ECAB 299 (1986); *Amy R. Rogers*, 32 ECAB 1429 (1981).

<sup>9</sup> *Harold Travis*, 30 ECAB 1071 (1979).

<sup>10</sup> *Aubrey Belnavis*, 37 ECAB 206, 212 (1985).

The decision of the Office of Workers' Compensation Programs dated June 28, 1999 is hereby affirmed.

Dated, Washington, DC  
November 1, 2001

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Priscilla Anne Schwab  
Alternate Member