

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRANCES G. WATSON and U.S. POSTAL SERVICE,
AIRPORT MAIL FACILITY, St. Louis, MO

*Docket No. 00-2799; Submitted on the Record;
Issued January 25, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
PRISCILLA ANNE SCHWAB

The issue is whether appellant had any work-related disability between March 1994 and January 1996 for which she did not receive compensation.

On March 15, 1996 appellant, then a 50-year-old mailhandler, filed an occupational disease claim alleging that her spinal stenosis, nerve root impingement, and rheumatoid arthritis resulted from excessive standing, bending, lifting, and pushing and pulling duties. She indicated that she became aware of these conditions in March 1994. In July 1995 appellant began a light-duty position due to a nonwork-related medical condition. On February 26, 1996, appellant accepted a limited-duty job but was released to regular work on March 25, 1997. On April 30, 1997, the Office of Workers' Compensation Programs accepted appellant's claim for temporary aggravation of lumbar spinal osteoarthritis and of mild spinal stenosis.¹

Appellant filed a claim for 2,268.76 hours of intermittent wage loss between March 22, 1994 and January 31, 1996 and for a leave buy-back of 23.14 hours from March 24, 1994 through July 5, 1995.

By decision dated August 10, 1999, the Office denied appellant's claim on the grounds that the medical evidence did not establish that she was unable to perform her job duties due to any employment-related conditions.

Subsequent to the Office's August 10, 1999 decision, appellant submitted copies of leave slips for 641 hours of lost wages on intermittent dates between March 15, 1994 and January 31, 1996.

¹ In a statement of accepted facts dated September 17, 1997, the Office noted that appellant had several nonwork-related conditions, including diabetes, lipoma of the left hip, a bladder problem, congenital short pedicle spinal stenosis, lumbar spinal osteoarthritis, spinal stenosis, and obesity.

By check dated March 10, 2000, appellant was paid \$8,375.79 for 641 hours of lost wages between March 1994 and January 1996.

By letter dated April 25, 2000, appellant requested reconsideration and submitted copies of documents previously submitted.

By decision dated June 16, 2000, the Office denied modification of its August 10, 1999 decision, finding that appellant had been paid for all dates for which the evidence of record established work-related disability.²

The Board finds that appellant has failed to establish that she had any additional work-related disability between March 1994 and January 1996 for which she did not receive compensation.

An award of compensation may not be predicated on surmise, conjecture, speculation or upon a claimant's belief of causal relationship. A claimant has the burden of establishing by reliable, probative and substantial evidence that the disability was causally related to a specific employment incident or to specified conditions of employment and, as part of such burden of proof, rationalized medical evidence must be submitted.³ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete and accurate factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

The record shows that the Office paid appellant, by check dated March 10, 2000, compensation for 641 hours of wage loss between March 1994 and January 1996, which were documented by leave slips from the employing establishment records indicating that appellant was sent home because work within her medical restrictions was not available.

Appellant has failed to provide medical evidence establishing any additional dates of disability between March 1994 and January 1996 caused by a work-related medical condition.

In a medical report dated April 27, 1994, a radiologist stated that computerized tomography scans had been made of appellant's thoracic and lumbar spine. However, he did not indicate that appellant underwent these tests for her accepted conditions of temporary

² There is a minor technical error in the record that does not affect the amount of compensation previously paid to appellant on March 10, 2000. It appears that the Office counted twice the eight hours appellant did not work on her October 13 to 14, 1995 shift due to the unavailability of work. However, the Office failed to include in its computations the eight hours appellant was not able to work on October 9, 1995 due to work being unavailable. Therefore, the total number of hours of documented wage loss previously paid, by check dated March 10, 2000, is unchanged by this particular error.

³ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁴ See *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

aggravation of spinal osteoarthritis and stenosis. Therefore, this report does not establish entitlement to wage loss compensation for April 27, 1994.

Appellant underwent a fitness-for-duty evaluation on May 31, 1995. The certificate indicated that she had rheumatoid arthritis and a shoulder condition but the evaluation did not involve appellant's accepted employment injuries. Therefore, this evidence does not establish entitlement to compensation for lost wages on May 31, 1995.

In a report dated July 10, 1995, a Dr. Weis indicated that appellant had pain from her right hip and lower lumbar spine and was scheduled for a magnetic resonance imaging (MRI) scan to rule out spinal stenosis. However, he did not explain how appellant's condition was causally related to her employment. Therefore, his report does not meet appellant's burden of proof.

On July 12, 1995, appellant underwent a MRI scan of the lumbar spine that revealed mild congenital short pedicle spinal stenosis. However, the radiology report does not explain how this condition was causally related to appellant's work-related aggravation of spinal osteoarthritis and stenosis. Therefore, this report does not establish that appellant had any work-related disability on July 12, 1995.

In a report dated August 8, 1995, Dr. Weis indicated that appellant had symptoms of spinal stenosis. However, he did not explain whether the symptoms were related to any employment factors and he did not indicate that appellant was disabled from her job. Therefore, this report does not establish that appellant is entitled to compensation for wage loss for August 8, 1995.

In a disability certificate dated August 8, 1995, a physician indicated that appellant was disabled through September 28, 1995 due to a tumor of the right hip and low back pain with radiculopathy. However, the certificate provided no physical findings or explanation of how appellant's disability was related to her accepted conditions of aggravation of osteoarthritis and stenosis. Therefore, this certificate does not establish that appellant was disabled between August 8 and September 28, 1995 due to her employment injuries.

In a report dated August 15, 1995, Dr. Jonathan A. Gold noted that a July 1995 MRI scan revealed congenital short pedicle spinal stenosis and a central and right-sided disc extrusion at L5-S1. He recommended physical therapy. However, he did not explain how this condition was causally related to appellant's accepted employment injuries. Therefore, this report is not sufficient to discharge appellant's burden of proof.

Other medical reports submitted by appellant for dates between May 31, 1994 and November 27, 1995 involved nonwork-related conditions such as arthralgia, rheumatoid arthritis, a hip condition and a bladder problem.

The June 16, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
January 25, 2002

Michael J. Walsh
Chairman

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member