

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHARON K. RANDALL and DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Scottsdale, AZ

*Docket No. 00-1959; Submitted on the Record;
Issued May 15, 2002*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate compensation effective October 15, 1995.

The Office accepted that appellant sustained tendinitis of the right arm casually related to her federal employment as a social insurance representative. She stopped working in 1991 and began receiving compensation for temporary total disability. The Office initially terminated compensation by decision dated July 26, 1994. This decision was reversed by an Office hearing representative in a decision dated January 9, 1995.

Appellant was referred for an examination by Dr. Stephen R. Stein, a Board-certified orthopedic surgeon. Following receipt of Dr. Stein's March 30, 1995 report, the Office referred appellant to Dr. Richard W. Goodell, a Board-certified neurologist.

By decision dated September 18, 1995, the Office terminated appellant's compensation for wage-loss and medical benefits effective October 15, 1995. In a decision dated October 27, 1997, an Office hearing representative affirmed the termination decision. Appellant filed an appeal with the Board, which was docketed as No. 98-564. By order dated January 12, 2000, the Board indicated that the case record had not been received and the case was remanded to the Office for proper assemblage of the case record and a decision to protect appellant's appeal rights.

In a decision dated April 27, 2000, the Office affirmed its September 18, 1995 decision.

The Board finds that the Office met its burden of proof to terminate compensation.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation. After it has been determined that an employee has disability

causally related to his employment, the Office may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.¹

In this case, the Office found that the medical evidence from Drs. Stein and Goodell was sufficient to terminate compensation effective October 15, 1995. The Board finds that the reports of Drs. Stein and Goodell represent the weight of medical opinion.

In his March 30, 1995 report, Dr. Stein provided a history and results on examination. He concluded:

“[Appellant] has no objective medical findings that indicate objective disability. [She] has only subjective findings and no objective findings. It would seem to me that [appellant] could function in some working activity. She may benefit from getting some form of neurological evaluation just to clear the air from that standpoint. I do think that [appellant] probably has some form of psychogenic overlay which is contributing to her difficulty.”

Dr. Stein clearly stated that he found no objective medical findings supporting a continuing disability. He indicated that appellant may benefit from a neurological examination, and the Office referred appellant to Dr. Goodell. In a report dated August 3, 1995, Dr. Goodell provided a history and results on examination, finding no evidence of neurologic disease. He stated that appellant did not have any neurologic problem that would restrict her activity.

The Board finds Drs. Stein and Goodell provided reasoned opinions indicating that appellant did not have a continuing orthopedic or neurologic condition causally related to employment. Appellant did not submit probative medical evidence supporting a continuing employment-related condition. In a report dated August 23, 1995, Dr. Stewart Mann, an internist, stated that he had been treating appellant for years and that her examinations revealed right arm tenderness. He did not provide a detailed history, diagnosis or otherwise offer a reasoned medical opinion on the issues presented. Accordingly, the Board finds that the weight of the medical evidence rested with Drs. Stein and Goodell. The Office therefore, met its burden of proof to terminate compensation in this case.

After termination or modification of benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to appellant. In order to prevail, she must establish by the weight of the reliable, probative and substantial evidence that she had an employment-related disability that continued after termination of compensation benefits.²

In this case, appellant submitted reports dated November 7, 1996, February 13 and April 10, 1997, from Dr. Michael Fairfax, an osteopath, who opined in the February 13, 1997 report that it was more likely than not that “the work which [appellant] was performing could exacerbate the symptoms of fibromyalgia.” Medical opinions that are speculative and not

¹ *Patricia A. Keller*, 45 ECAB 278 (1993).

² *Talmadge Miller*, 47 ECAB 673, 679 (1996); *see also George Servetas*, 43 ECAB 424 (1992).

supported by medical rationale are generally entitled to little probative value and are insufficient to meet appellant's burden of proof.³ Dr. Fairfax does not provide a reasoned medical opinion, based on a complete background, with respect to an employment-related condition after October 15, 1995. Appellant also submitted a brief report dated September 17, 1996 from Dr. Mann, stating that she had become totally disabled due to overuse of her right arm. Dr. Mann did not provide additional detail or explanation and his report is of diminished probative value to the issues presented. The Board finds that appellant did not submit probative medical evidence with respect to a continuing employment-related condition after October 15, 1995.

The decision of the Office of Workers' Compensation Programs dated April 27, 2000 is affirmed.

Dated, Washington, DC
May 15, 2002

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

³ *Carolyn F. Allen*, 47 ECAB 240 (1995).