U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA J. HOLBERT and U.S. POSTAL SERVICE,
POST OFFICE, Colorado Springs, CO

Docket No. 01-1728; Submitted on the Record;
Issued May 15, 2002

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
WILLIE T.C. THOMAS

The issue is whether appellant has established a recurrence of disability as of April 21, 1989.

The case was before the Board on a prior appeal. By decision dated January 14, 2000, the Board set aside decisions of the Office of Workers' Compensation Programs dated February 20 and 21, 1997.[1] The Board found that appellant's request for reconsideration of a November 17, 1995 decision was timely and the case was remanded for an appropriate decision. In addition, the Board affirmed a March 31, 1997 Office decision regarding a recurrence of disability in December 1996. The history of the case is contained in the Board's prior decision and is incorporated herein by reference.

By decision dated February 9, 2000, the Office reviewed the case on its merits and denied modification of the November 17, 1995 decision. In a decision dated March 1, 2001, the Office denied modification.

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability as of April 21, 1989.

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.[2]

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[1] Docket Nos. 97-2088 and 97-2089.

[2] *Terry R. Hedman*, 38 ECAB 222 (1986).

The accepted employment injuries in this case are a bilateral carpal tunnel syndrome, accepted pursuant to an occupational disease claim and cervical and trapezius strains, with aggravation of right carpal tunnel syndrome, as a result of a December 5, 1987 employment incident. Appellant returned to light-duty work and stopped working on April 21, 1989. Under these circumstances, it is her burden of proof to establish entitlement to compensation for wage loss. Appellant has not alleged a change in the light-duty job; she argues that employment injuries prevented her from working.

In this case, the medical evidence is not of sufficient probative value to meet appellant's burden of proof. With respect to the period on and around April 21, 1989, there is no probative medical evidence establishing a change in the employment-related condition. In a treatment note dated April 4, 1989, Dr. Dennis Phelps, an orthopedic surgeon, reported that appellant was seen with complaints of low back discomfort. He stated that appellant's symptoms were related to the December 1987 fall, without providing further explanation. The Board notes that a lumbar condition has not been accepted. Moreover, Dr. Phelps did not provide a subsequent report discussing appellant's work stoppage and relating any disability to the employment injuries. In a report dated June 12, 1989, Dr. David Brown, a chiropractor, opined that appellant was disabled for work. Section 8101(2) of the Federal Employees' Compensation Act provides that the term '"physician' … includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist."[3] Dr. Brown did not diagnose a subluxation based on x-rays and is not considered a physician under the Act.

In a report dated February 5, 1991, Dr. Thomas Higginbotham, an osteopath, provided a history but did not offer an opinion regarding an employment-related disability. In a report dated August 5, 1992, Dr. Daniel A. Dotson, an anesthesiologist, noted a December 1987 injury and indicated that appellant continued to work until April 1989. The record contains form reports (Form CA-20a) commencing in June 1996 from Dr. Dotson that check a box "yes" that appellant's present condition was employment related. The checking of a box "yes" in a form report, without additional explanation or rationale, is of little probative value to the issues presented.[4] Dr. Dotson also submitted narrative reports dated October 24, 1996 and January 26, 2001. The October 24, 1996 report provides results on examination, without providing a reasoned opinion on disability as of April 1989. In the January 26, 2001 report, Dr. Dotson stated that appellant was totally and permanently disabled since 1989. He did not provide a complete factual and medical background, or discuss appellant's light-duty job and her medical condition as of April 1989. Medical reports must be based on a complete and accurate factual and medical background and medical opinions based on an incomplete or inaccurate history are of little probative value.[5] The Board finds that Dr. Dotson did not provide a reasoned medical opinion based on a complete background and his reports are therefore of diminished probative value to the issues presented.

[3] 5 U.S.C. § 8101(2).

[4] *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

[5] *See Patricia M. Mitchell*, 48 ECAB 371 (1997); *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

In the absence of probative medical evidence with respect to disability for work commencing in April 1989, the Board finds that appellant has not met her burden of proof in this case. The Board also notes that appellant argues that her claim for compensation is supported by a finding that she was "disabled" under the Social Security Act. It is well established that the findings of an administrative agency with respect to entitlement to benefits under a specific statutory authority has no bearing on entitlement to compensation under the Federal Employees' Compensation Act.[6]

The decision of the Office of Workers' Compensation Programs dated March 1, 2001 is affirmed.

Dated, Washington, DC
May 15, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member

[6] *Burney L. Kent*, 6 ECAB 378 (1953) (findings by the Veterans Administration had no bearing on proceedings under the Act); *see also Daniel Deparini*, 44 ECAB 657 (1993) (findings of the Social Security Administration are not determinative of disability under the Act).