

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KAREN S. RANDALL and DEPARTMENT OF HEALTH & HUMAN
SERVICES, SOCIAL SECURITY ADMINISTRATION, Newport Beach, CA

*Docket No. 03-202; Submitted on the Record;
Issued July 9, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issues are: (1) whether appellant met her burden of proof to establish that she sustained an emotional condition causally related to factors of her employment; and (2) whether she had any disability between April 11, 1997 and January 5, 2000 causally related to her employment.

On September 26, 1999 appellant, a 59-year-old former claims representative, filed a claim, alleging that on April 11, 1997 she sustained a recurrence of disability of an August 20, 1996 employment injury, adjudicated by the Office of Workers' Compensation Programs under file number 13-1113300.¹ She stated that she was physically unable to continue using her hands, wrists, elbows, shoulder and neck at work and that stress caused severe emotional problems, advising that she worked from November 6, 1997 to September 2, 1998, when she stopped completely.² On September 27, 1999 she filed an occupational disease claim, alleging that factors of employment caused tendinitis in both shoulders, elbows, arms, wrists and hands,

¹ Regarding Office file number 13-1113300, on September 24, 1996 appellant filed an occupational disease claim, alleging that factors of employment caused chronic and acute tendinitis of both upper extremities and anxiety and depression. By decision dated November 14, 1996, the Office denied that appellant sustained an employment-related orthopedic condition. In a March 4, 1997 decision, an Office hearing representative remanded the case to the Office for a second opinion evaluation regarding appellant's orthopedic condition and advised that the Office should develop the emotional condition as a separate claim. By letter dated May 20, 1997, the Office accepted that appellant sustained employment-related left calcific tendinitis and right carpal tunnel syndrome with aggravation of fibromyalgia, all of which had resolved by the time of the second opinion evaluation on April 10, 1997. By decision dated August 13, 1997, the Office found that appellant was not entitled to compensation benefits after April 10, 1997. In a decision dated May 11, 1998 and finalized on May 13, 1998, an Office hearing representative affirmed the prior decision. Following appellant's requests for reconsideration, in decisions dated July 15 and December 14, 1998, the Office denied modification of the prior decision.

² The record indicates that appellant stopped work on April 11, 1997 due to the terminal illness of her husband who died in September 1997. Appellant returned to work on November 6, 1997. Her last day of work was September 2, 1998 with September 26, 1998 the effective date of retirement.

fibromyalgia, and chronic anxiety and depression which had forced her to quit work in September 1998.³ This claim was adjudicated by the Office under file number 13-1205236.⁴ In a statement that accompanied both claim forms, appellant stated that she was “devastated emotionally” due to her fibromyalgia and advised that she did not know what form should be filed and that she did not understand prior decisions dated July 15 and December 14, 1998, rendered under file number 13-1103300.

By letter dated December 9, 1999, the Office informed appellant of the type of evidence needed to develop the recurrence claim and, in a decision dated January 13, 2000, the Office denied that appellant sustained a recurrence of disability, stating that she submitted no evidence with her claim and had not responded to the development letter.⁵ On January 18, 2000 appellant submitted responses to specific questions regarding the recurrence claim, including that she suffered from depression due to family deaths and several acute attacks of diverticulitis which were exacerbated by “stress from job.” She also submitted a number of medical reports and other evidence.

The Office continued to develop the occupational disease claim (13-1205236) and, in letters dated February 10, 2000, referred appellant, along with the medical record, an appropriate set of questions, and a statement of accepted facts to both a psychiatrist and a Board-certified orthopedic surgeon, for second opinion evaluations. By letter dated April 3, 2000, the Office accepted that appellant sustained employment-related bilateral shoulder tendinitis and right carpal tunnel syndrome, both resolved, with a brief period of total disability in October 1993.

In a decision dated April 5, 2000, the Office credited the opinion of the orthopedic second opinion examiner and found that appellant had no disability between April 11, 1997 and January 5, 2000 causally related to an employment injury. On January 23, 2001 appellant requested reconsideration of the April 5, 2000 decision and alleged that much of her stress was due to overwork and having to deal with the public where she had to listen to “everyone’s problems,” as well as from the fibromyalgia. She further submitted additional evidence. By decision dated May 9, 2001, the Office reviewed appellant’s prior claims and the evidence submitted and, crediting the opinions of the psychiatric and orthopedic second opinion examiners, denied modification of the prior decision. The Office specifically found that appellant failed to establish that she sustained an emotional condition causally related to factors of employment. On May 7, 2002 appellant, through her attorney, requested reconsideration and submitted additional medical evidence. By decision dated August 5, 2002, the Office denied modification of the prior decision, again finding that the weight of the medical evidence rested with the opinions of the second opinion examiners. The instant appeal follows.

³ Appellant had voluntarily retired effective September 26, 1998. *See id.*

⁴ The record also indicates that appellant had a 1989 claim that was accepted for left rotator cuff syndrome and a 1993 claim that was accepted for right carpal tunnel syndrome with surgical release. These claims were adjudicated under file numbers 13-894472 and 13-1003200 respectively. The record further indicates that a stress claim, adjudicated by the Office under file number 13-1122612, was denied on August 5, 1997.

⁵ There is no indication in the record that appellant requested reconsideration of this decision. As it was issued more than one year prior to appellant’s appeal to the Board on October 21, 2002, the Board lacks jurisdiction to review this decision. 20 C.F.R. § 501.3(d)(2).

The medical evidence in this case includes a treatment note dated February 18, 1997 in which appellant's treating Board-certified internist, Dr. Andrew Siskind, advised that appellant was there for her yearly examination. He noted her complaints of pain in her hands, wrists, feet, shoulders and elbows, "worsening at work." Examination revealed tenderness without swelling, heat or redness in the wrists, elbows, shoulder and knees. He diagnosed, *inter alia*, fibromyalgia, "doubt seronegative rheumatoid arthritis" and depression, "doing better."

Dr. Fredrick J. Lieb, a Board-certified orthopedic surgeon who provided a second opinion evaluation for the Office dated April 10, 1997, noted that appellant related that she began having "cumulative trauma disorder of both upper extremities" in October 1988 when she began training on computers. He further noted her work history as a claims representative with continual computer keyboarding and complaints of continuous pain in the neck, shoulders, elbows, wrists and hands and occasional numbness or tingling of the left arm and the history of right carpal tunnel release. Dr. Lieb's examination of the cervical spine was normal, and upper extremity examination revealed no tenderness although he reported that appellant complained of pain in the left shoulder upon active external rotation. Adson's, impingement, apprehension, Yergason's, tennis elbow, Finkelstein's, Phalen's and Tinel's tests were negative. Range of motion testing of the shoulder, elbow, forearm, wrist, thumb and hand was normal. Neurological examination was normal. Dr. Lieb diagnosed rotator cuff syndrome (calcific tendinitis) left shoulder, resolved; right carpal tunnel syndrome status postoperative surgical release, resolved; and fibrositis/fibromyalgia syndrome, preexisting, possibly transiently aggravated by overtime work activities. He stated:

"Fibrositis/fibromyalgia is a pain syndrome involving the musculoskeletal system in which there are no diagnostic studies which can establish any disorder with accuracy. Biopsy of the muscular tissue or fibrous tissue will microscopically appear normal. There are no blood studies or imaging studies which can be used to confirm this diagnosis. Some of the common factors in this diagnosis are an almost universal association of some emotional disorder, primarily depression, and often sleep disorder. The primary characteristic of this syndrome from the standpoint of physical examination are specific tender points at specific areas of the anatomy. On my examination, she did not demonstrate any such tender points. It is, however, recognized that this syndrome can be aggravated or intensified by stressful situations."

Dr. Lieb noted that appellant had been diagnosed with fibrositis in 1982 which, he advised, was not work related but stated that "if this condition in fact exists," it could have been transiently aggravated by the considerable overtime she was working in September 1996. He concluded that she had no injury-related disability at the time of his examination although the preexisting fibrositis/fibromyalgia could become disabling when aggravated by stressful situations. Dr. Lieb provided no restrictions to appellant's physical activity other than that she should only work 8 hours per day, 40 hours per week with no overtime.

In an August 20, 1997 treatment note, Dr. Siskind advised that appellant reported that "she is still depressed/stressed over her husband's situation and does not feel as though she can go back to work." In an October 16, 1997 note, he advised that appellant's husband had "died a few days ago," continuing that she was "considering going back to work." He stated that he

warned appellant that “this may exacerbate her problems.” In a December 8, 1997 note, Dr. Siskind advised that appellant’s depression was better but that she reported that her wrists, elbows, biceps and shoulder had worsened since her return to work.

Dr. Anthony Wong, a treating Board-certified internist, provided reports dating from March 27, 1998 to July 13, 1999. Dr. Wong diagnosed, *inter alia*, depression and anxiety, fibromyalgia and history of bilateral shoulder and arm tendinitis. In an April 6, 1998 report, he noted appellant’s complaints of bilateral hand, arm and finger achiness related to work with findings on examination of no tenderness of the wrists and soreness of the right middle finger without erythema. Examinations continued to demonstrate tenderness over the elbows and wrists and, in reports dated May 8 and 28, June 11 and September 3, 1998, Dr. Wong consistently diagnosed bilateral arm, wrist and hand tendinitis related to work.

In a June 2, 1998 treatment note, Dr. R. Olvera⁶ diagnosed a history of fibromyalgia and multiple areas of tendinitis/bursitis. On examination he noted diffuse tenderness almost everywhere appellant was touched. Dr. Olvera recommended physical therapy and concluded that her medial and lateral epicondylitis “may in fact be work related.”

In notes dated November 4 and 13, 1998 and March 23 and April 27, 1999, Dr. Wong reported that appellant’s extremities were better since she retired. Examination of the wrists on June 25, 1999 demonstrated no tenderness or swelling with negative Tinel’s and Phalen’s signs. He continued to note appellant’s complaints of discomfort in her wrists, elbows and shoulders.

In an August 28, 1998 report, Dr. Gonzalo A. Covarrubias, a Board-certified orthopedic surgeon, noted appellant’s work history, past right carpal tunnel release, and diagnosis of fibromyalgia. He noted findings of tenderness on physical examination. Shoulder examination demonstrated pain and crepitus. Dr. Covarrubias’ diagnostic impression was cervical degenerative disc disease without radiculopathy, left shoulder rotator cuff calcific tendinitis with limitation of motion and intermittent pain, bilateral lateral epicondylitis with pain on activity, history of right carpal tunnel syndrome with residual mild atrophy and fibromyalgia/fibrositis syndrome. He advised that “most of these are from progressive deterioration and stress due to her current job status,” stating that the fibrositis and fibromyalgia were preexisting but were aggravated by job duties, as were the epicondylitis and shoulder tendinitis.

Dr. R.K. Ghosheh, Jr., a psychiatrist, provided a report dated July 14, 1999 in which he advised that appellant had not recovered from her chronic emotional and physical disorders which were interrelated. Dr. Ghosheh noted the death of her first husband in December 1996, her second husband in September 1997, her sister-in-law in July 1998 and her father-in-law in October 1998 and further reported financial difficulties and conflicts with her children. He noted that appellant retired in September 1998 and stated that her physical limitations were due to pains in her wrists, hands and shoulders. Dr. Ghosheh stated, “consult with her orthopedic surgeon about her physical restrictions to do computer work. The emotional factors are limiting, but not restrictive of her to do other rehabilitating jobs” and concluded that she should be trained to do a nonphysically-restrictive job that was noncompetitive and anxiety-free with minimal public exposure.

⁶ Dr. Olvera’s credentials are unknown.

In answer to questions provided by the Office regarding the April 11, 1997 recurrence, in a report dated January 5, 2000, Dr. Wong advised that appellant had not recovered from her original disability caused by left shoulder tendinitis, right carpal tunnel syndrome and fibromyalgia, noting lingering symptoms of pain and stiffness. He opined that her usual job responsibilities produced a recurrence on April 11, 1997.

Dr. Reynaldo Abejuela, who is Board-certified in psychiatry and neurology, provided a psychiatric second opinion evaluation dated February 29, 2000 in which he noted his examination of appellant that day, his review of the medical record and the statement of accepted facts which included a job description,⁷ the history of present illness as presented by appellant including her complaints and current condition. Following psychiatric evaluation, he diagnosed depressive disorder, alcohol abuse in remission and multiple physical problems and pain. Dr. Abejuela opined that her diagnosed psychiatric condition was not related to factors of employment but concluded that she was unable to work or participate in vocational rehabilitation due to the nonemployment-related depression. In an attached work capacity evaluation, he reiterated his conclusion that appellant could not work.

Dr. Jillian Daly conducted psychological testing on February 29, 2000, and in a report dated March 6, 2000, advised that diagnoses for individuals with similar test performance included major affective disorder including major depression and/or dysthymic disorder, anxiety disorder, somatoform disorder and/or conversion disorder as well as a personality disorder with paranoid, schizoid and/or schizotypal traits.

By report dated March 6, 2000, Dr. Ibrahim Yashruti, a Board-certified orthopedic surgeon, who provided a second opinion evaluation for the Office, noted that he had examined appellant on March 2, 2000. He recorded her subjective complaints of mild aching in both shoulders, elbows, wrists and hands but found no abnormal findings on examination. Dr. Yashruti diagnosed history of bilateral shoulder tendinitis, resolved; history of right carpal tunnel syndrome, status post surgical release, completely resolved; and history of fibromyalgia, resolved. He opined that, while these conditions were employment related and that she would have been totally disabled for about a week following her surgery in 1993, the conditions had completely resolved at the time of his examination and no treatment was indicated. Dr. Yashruti concluded that appellant had no limitations. In an attached work capacity evaluation dated March 2, 2000, he advised that appellant could work eight hours per day. Following a review of Dr. Yashruti's report, Dr. Abejuela provided a supplementary report dated March 8, 2000 in which he reiterated his findings and conclusions.

In a March 27, 2002 report, Dr. John B. Dorsey, who is Board-certified in orthopedic surgery, described appellant's employment and past medical history, her complaints and his review of the medical record. Following physical examination, Dr. Dorsey diagnosed cervical, thoracic and lumbar strain, bilateral bicipital tendinitis of the shoulders, bilateral epicondylitis of the elbows and bilateral extensor tendinitis of the wrists. He advised that the carpal tunnel syndrome had completely resolved and that she did not have fibromyalgia. Dr. Dorsey opined that his examination was consistent with tendinitis involving both shoulders, both elbows and

⁷ The statement of accepted facts indicated that appellant typed 75 to 95 percent of the time, with an alternative work schedule of 8- and 9-hour days and that in the spring of 1996 she began working overtime.

both wrists which “is more in line with [her] work activities which were repetitive in nature....” He concluded that appellant was disabled from performing her job as a claims representative because she could not type or key.

In a report dated April 3, 2002, Dr. Alex B. Caldwell noted findings on psychological testing of severe depression, adding that the profile indicated a variety of physical symptoms and concerns on a psychological basis, stating “pain, weakness and fatigue are apt to be hysterical in origin.”

Dr. Richard A. Greenberg, a psychiatrist, provided an April 25, 2002 report in which he reviewed appellant’s employment history and physical complaints. Dr. Greenberg advised that psychiatric evaluation revealed marked frustration, poorly controlled feelings of anger, depressed mood, and marked concern about her health. He advised that he saw no evidence that she was “significantly emotionally disabled for industrial purposes” prior to the “physical injuries and being subjected to the heavy workload and the lack of supervisor appreciation” at her employment. Dr. Greenberg diagnosed dysthymia, psychological factors affecting her medical condition including gastric upsets and irritable bowel syndrome, status post right carpal tunnel release, left shoulder tendinitis, left shoulder torn rotator cuff and fibromyalgia and found no evidence that appellant was malingering. He advised that appellant’s condition was “dramatically aggravated” by chronic pain from her physical condition and concluded that “the present significant but not severe emotional disability from which [she] suffers is the result of and was precipitated in part by physical injuries incurred while working for the [employing establishment] with failure to recover promptly.”

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an emotional condition causally related to factors of employment.

To establish her claim that she sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.⁸

Workers’ compensation law does not apply to each and every injury or illness that is somehow related to an employee’s employment. In the case of *Lillian Cutler*,⁹ the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under the Federal Employees’ Compensation Act.¹⁰ There are situations where an injury or illness has some connection with the employment but nevertheless does not come within coverage under the Act.¹¹ When an employee experiences

⁸ *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁹ 28 ECAB 125 (1976).

¹⁰ 5 U.S.C. §§ 8101-8193.

¹¹ See *Anthony A. Zarcone*, 44 ECAB 751, 754-55 (1993).

emotional stress in carrying out his or her employment duties, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from an emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of his or her work.¹²

In the instant case, appellant alleged that she sustained an emotional condition as a result of overwork, dealing with the public and due to her fibromyalgia. Her job description provides that "all segments of the general public will be encountered" in the performance of the claims representative position. The record further provides that appellant began working overtime in the spring of 1996. The Board has held that working overtime is sufficiently related to regular or specially assigned duties to constitute a compensable employment factor.¹³ Likewise, face-to-face contact with the public can constitute a compensable factor of employment.¹⁴ The Board therefore finds that appellant has established two compensable factors of employment in the instant case.

The Board, however, finds that appellant did not meet her burden of proof to establish that her emotional condition was related to these factors because she did not submit rationalized medical evidence explaining how they caused or aggravated her emotional condition. In an August 27, 1997 report, Dr. Siskind advised that appellant reported that she was still depressed over her husband's condition, and while Dr. Wong diagnosed depression and anxiety, he did not provide a cause of these conditions. By report dated July 14, 1999, Dr. Ghosheh, appellant's treating psychiatrist, advised that her emotional and physical disorders were interrelated but provided no additional opinion regarding the cause of her condition. These reports are therefore insufficient to meet appellant's burden.

Dr. Abejuela, who provided a psychiatric second opinion evaluation for the Office dated February 29, 2000, advised that appellant's diagnosed psychiatric condition was not employment related. Lastly, Dr. Greenberg advised, in a report dated April 25, 2002, that he saw no evidence that appellant was emotionally disabled prior to her physical injuries and being subjected to a heavy workload and specifically opined that appellant's emotional condition was precipitated in part by her physical injuries. The Board has held that a medical opinion that a condition is causally related to an employment injury because the employee was asymptomatic before an injury but symptomatic after it is insufficient, without supporting rationale, to establish causal relation.¹⁵ The Board therefore finds Dr. Greenberg's opinion of decreased probative value. Appellant thus failed to establish that her emotional condition was related to these specific employment factors.

Regarding appellant's contention that her emotional condition is caused by fibromyalgia, the Board initially notes that while on May 20, 1997 the Office accepted that appellant sustained employment-related aggravation of fibromyalgia, it also found that this condition had resolved

¹² *Lillian Cutler*, *supra* note 9.

¹³ *Ezra D. Long*, 46 ECAB 791 (1995).

¹⁴ *Peter J. Smith*, 48 ECAB 453 (1997).

¹⁵ *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

by the time of Dr. Lieb's second evaluation on April 10, 1997. The Office further found that her bilateral shoulder tendinitis and carpal tunnel syndrome had resolved. As stated above, Dr. Ghosheh provided a brief assertion that appellant's emotional and physical disorders were interrelated. Likewise, Dr. Greenberg opined that appellant's emotional condition was caused by chronic pain from her employment-related physical injuries. The Board, however, finds these reports are insufficient to establish that appellant's emotional condition is causally related to employment as her physical injuries had resolved and, as discussed, *infra*, the Board finds that appellant has established no periods of disability related to these conditions.

The Board further finds that appellant failed to establish that she had any disability after April 11, 1997 causally related to employment.

Under the Act¹⁶ the term "disability" means incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury. Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn the wages. An employee who has a physical impairment causally related to a federal employment injury, but who nonetheless has the capacity to earn wages she was receiving at the time of injury, has no disability as that term is used in the Act and whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.¹⁷

Causal relationship is a medical issue,¹⁸ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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 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.¹⁹

Furthermore, when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation. However, when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.²⁰

Initially, the Board notes that appellant's absence from work from April to November 1997 was for personal reasons,²¹ and there is no rationalized medical evidence indicating that she

¹⁶ 5 U.S.C. §§ 8101-8193.

¹⁷ *Maxine J. Sanders*, 46 ECAB 835 (1995).

¹⁸ *Mary J. Briggs*, 37 ECAB 578 (1986).

¹⁹ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

²⁰ *Gary R. Sieber*, 46 ECAB 215 (1994).

²¹ *See supra* note 2.

was physically incapable of performing her job duties during this period. In his second opinion evaluation dated April 10, 1997, Dr. Lieb advised that appellant had no employment-related disability and provided no restrictions to her physical activity other than that she should not work overtime. While appellant's treating internist, Dr. Siskind, provided reports in which he described her complaints of pain at work, he did not advise that she was disabled there from. Dr. Wong merely provided an answer on an Office questionnaire that appellant's job responsibilities caused an April 1997 recurrence without providing any rationalized explanation. Furthermore, there is no indication from the record that Dr. Wong treated appellant in April 1997. His report is, therefore, of decreased probative value. The Board thus finds that appellant failed to meet her burden of proof to establish that she had any employment-related disability during the period from April 11 to November 6, 1997 when she returned to work.

Regarding the period from November 1997 until appellant retired in September 1998, while both Drs. Wong and Olvera advised that appellant's bilateral arm, wrist and hand conditions were employment related, neither provided an opinion regarding her ability to work. The Board therefore finds that appellant failed to establish that she sustained an employment-related disability during this period.

Regarding the period after appellant's retirement in September 1998, by report dated August 28, 1998, Dr. Covarrubias diagnosed cervical degenerative disc disease and a number of upper extremity conditions and advised that most were a progressive deterioration aggravated by job duties. In reports dated November 4 and 13, 1998 and March 23 and April 27, 1999, Dr. Wong reported that appellant's extremities were better since her retirement, and that his June 25, 1999 examination demonstrated no tenderness or swelling with negative Tinel's and Phalen's signs. Dr. Ghosheh advised that appellant's chronic emotional and physical disorders were interrelated. None of these physicians, however, provided an opinion regarding appellant's ability to work and are therefore insufficient to meet appellant's burden. Dr. Abejuela, who provided a lengthy psychiatric second opinion evaluation dated February 29, 2000, diagnosed, *inter alia*, depressive disorder which would prevent appellant from working. He, however, advised that it was not related to factors of employment. In a comprehensive report dated March 6, 2000, Dr. Yashruti, who provided an orthopedic second opinion evaluation, advised that all appellant's orthopedic conditions had resolved and opined that she could work eight hours a day.

While Dr. Dorsey, who examined appellant in March 2002, diagnosed cervical, thoracic and lumbar strain, bilateral bicipital tendinitis of the shoulders, bilateral epicondylitis of the elbows and bilateral extensor tendinitis of the wrists, which he implied were employment related and concluded that appellant could not return to work as a claims representative, he did not provide a rationalized explanation of why these conditions persisted three and one half years after her retirement.²² In light of Dr. Wong's findings in reports dated November 1998 to June 1999 that appellant's upper extremity conditions had improved since retirement, and Dr. Yashruti's opinion that all employment-related disability had ceased, the Board finds that appellant has not established that any disability after her retirement in September 1998 to June 5, 2000 was causally related to an employment-related condition.

²² See Eileen R. Kates, 46 ECAB 573 (1995).

The decision of the Office of Workers' Compensation Programs dated August 5, 2002 is hereby affirmed.

Dated, Washington, DC
July 9, 2003

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member