

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SAMUEL DANIELS and U.S. POSTAL SERVICE,  
POST OFFICE, Jersey City, N.J.

*Docket No. 96-421; Submitted on the Record;  
Issued April 6, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation benefits effective April 3, 1994.

The Board has duly reviewed the case on appeal and finds that the Office met its burden to terminate appellant's compensation benefits.

Once the Office accepts a claim it has the burden of justifying termination or modification of compensation. After it has determined that an employee has disability causally related to his or her employment, the Office may not terminate compensation without establishing that the disability has ceased or that it was no longer related to the employment.<sup>1</sup>

In this case, the Office accepted that on May 13, 1986 appellant sustained temporary aggravation of a herniated disc at L4 for which he received appropriate compensation. As there was no contemporaneous medical evidence in the record,<sup>2</sup> on May 19, 1993 the Office referred appellant, along with a statement of accepted facts, a set of questions and the medical record, to Dr. James W. Faulk, a Board-certified orthopedic surgeon, for a second-opinion evaluation. Based on his reports, by letter dated February 25, 1995, the Office proposed to terminate appellant's compensation benefits. Appellant responded that he disagreed with the proposal and submitted two unsigned pages identified as "patient daily chart." By decision dated March 30, 1994, the Office terminated his compensation benefits, effective April 3, 1994. Following appellant's request for reconsideration by decision dated December 14, 1994, the Office found the medical evidence submitted insufficient to warrant modification of the prior decision

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<sup>1</sup> See *Patricia A. Keller*, 45 ECAB 278 (1993).

<sup>2</sup> The most recent evidence was a January 28, 1992 report in which Dr. Burke H. Dial, a Board-certified neurosurgeon, described appellant's symptoms and noted that a cervical magnetic resonance imaging (MRI) scan was read as normal and lumbar spine MRI scan was read as showing a broad-based bulge at L4-5 without discrete disc herniation.

The contemporaneous medical evidence establishes that appellant had no employment-related disability or residuals on or after April 3, 1994. In his comprehensive report dated June 14, 1993, Dr. Faulk noted appellant's history of injury, his medical history and diagnosed degenerative disc disease of the cervical spine and at L4-5. He advised that a herniated disc at C7-T1 was not employment related and that any current limitations were related to appellant's underlying condition, a nonemployment-related back injury that he sustained in the 1970s. In the accompanying work restriction evaluation, Dr. Faulk advised that appellant could work eight hours per day with restrictions. While appellant submitted two pages of unsigned notes, as these forms lack proper identification, they cannot be considered probative evidence.<sup>3</sup>

As there is no medical evidence supporting continuing disability due to appellant's accepted temporary aggravation of a herniated disc at L4 and as Dr. Faulk submitted a well-rationalized report finding that appellant's current condition was not due to his employment injury, the Office met its burden of proof to terminate appellant's compensation benefits, effective April 3, 1994.

The Board further finds that appellant failed to establish that he had any continuing disability causally related to his accepted injury after April 3, 1994.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that he had disability causally related to his accepted injury.<sup>4</sup> To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>5</sup>

On November 4, 1994 appellant requested reconsideration and submitted additional medical evidence. In an April 27, 1994 report, Dr. Wayne Hodges<sup>6</sup> diagnosed low back pain syndrome and advised that appellant would benefit from pain management. In a September 22, 1994 report, Dr. K. Andrew Goler, a Board-certified neurosurgeon, described appellant's medical history and diagnosed lumbar degenerative disc disease and cervical musculoligamentous sprain with possible early degenerative disc disease without evidence of cervical or lumbar radiculopathy.

The Board finds that these reports are not sufficient to meet appellant's burden of proof as neither physician discussed the cause of appellant's current condition. As appellant failed to present sufficient rationalized medical evidence to establish that his current condition or disability is causally related to his employment injury, he failed to meet his burden of proof.<sup>7</sup>

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<sup>3</sup> See *Merton J. Sills*, 39 ECAB 572 (1988).

<sup>4</sup> See *George Servetas*, 43 ECAB 424 (1992).

<sup>5</sup> See 20 C.F.R. § 10.110(a); *Kathryn Haggerty*, 45 ECAB 383 (1994).

<sup>6</sup> Dr. Hodges' credentials are unknown.

<sup>7</sup> The Board notes that the record also contains a claim dated February 4, 1985 alleging that appellant sustained

The decision of the Office of Workers' Compensation Programs dated December 14, 1994 is hereby affirmed.

Dated, Washington, D.C.  
April 6, 1998

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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employment-related arm pain on January 22, 1985 while lifting sacks of mail. The record, however, does not contain an Office decision on this claim.