

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LEE A. KREISVELT and U.S. POSTAL SERVICE,
POST OFFICE, Tulsa, Okla.

*Docket No. 96-1250; Submitted on the Record;
Issued March 24, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant's total disability from November 17 through December 22, 1994 is causally related to her employment injury of May 25, 1994.

In a decision dated April 13, 1995, the Office of Workers' Compensation Programs denied appellant's claim for monetary compensation for total disability from November 17 through December 22, 1994 on the grounds that the medical evidence of record did not support her claim. The Office had accepted only a left shoulder strain and the medical evidence submitted to support the claim identified diagnoses such as cervical-thoracic musculoskeletal dysfunction; neuropathy, left arm; carpal tunnel syndrome; degenerative joint disease, cervical spine; and musculoligamentous injury, neck and left shoulder.

Appellant underwent left shoulder surgery on June 9, 1995. Accepting that the employment incident of May 25, 1994 resulted in a torn rotator cuff, left shoulder, the Office placed appellant on the periodic compensation rolls.

To further support her claim of total disability from November 17 through December 22, 1994, appellant submitted a July 17, 1995 report from her attending physician, Dr. David L. Smith, a general practitioner. Dr. Smith reported that appellant had been a patient of his since March 25, 1993, that on May 26, 1994 she complained of pain in the left shoulder and neck and that this pain started after she lifted a tray off a conveyer belt at work on May 25, 1994. He stated that appellant was treated conservatively with rest, muscle relaxers, anti-inflammatory and pain medications. She was seen multiple times over the next several months with the same complaint of left neck and shoulder pain. Concerning the period of disability in question, Dr. Smith stated that on November 17, 1994 appellant was taken off work and referred to a neurologist. Appellant remained off work until December 22, 1994, Dr. Smith explained, due to the side effects of pain medications and doing physical therapy three times a week and cervical traction at home. "It is my opinion," he stated, "that the patient's pain and discomfort has been shown to have a direct correlation to her injury on May 26, [sic] 1994."

The Office received treatment notes showing that appellant was being examined on a regular basis throughout this period, including four examinations during the period of total disability claimed.

In a May 31, 1995 report, Dr. John D. DeWitt, the neurologist to whom Dr. Smith referred appellant, stated that he had reviewed appellant's records and the records from Dr. Smith. "I agree with Dr. Smith," he stated, "that the accident of interest occurred May 25, 1994 and she was unable to work from November 17, 1994 and disabled because of the accident that injured her left shoulder until I saw her on January 5, 1995."

In an October 5, 1995 report, Dr. Denny E. Krout, the orthopedic surgeon who operated on appellant's left shoulder on June 9, 1995, presented the following medical rationale to support appellant's claim:

"I am writing this letter on behalf of [appellant] concerning five weeks of physical therapy prescribed by Dr. Smith back in November 1994. In light of the severity of her shoulder impingement which was not deemed to be operative until a later date, I believe that the period of disability from November 17 to December 22, 1994 was a totally appropriate course of treatment which was available provided [sic] by Dr. Smith. It is a well-known documented fact, medically, in the Orthopedic Journal that rest and conservative therapy along with strengthening exercises is the best initial course for shoulder impingement prior to surgical intervention. Dr. Smith has written a letter that he has taken her off the course of pain therapy and the medications, the medications being primarily for pain which could have hindered her ability to perform activities of daily living and compromised the safety of her in the market place. I agreed with his decision to put [appellant] on medical disability due to her condition at that time. With the failure of rest, therapy and medications, it was felt necessary to surgically intervene and correct it at that time, of which you are fully aware. However, I do totally agree that Dr. Smith's initial course of rest therapy and medication was the optimum choice at that time."

In a decision dated December 19, 1995, the Office reviewed the merits of appellant's claim and denied modification of its April 13, 1995 decision.

The Board finds that the medical evidence is sufficient to establish that appellant's total disability from November 17 through December 22, 1994 is causally related to her employment injury of May 25, 1994.

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of her claim by the weight of the evidence,² including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.³

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between her current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.⁴

The reports of Drs. Smith, DeWitt and Krout support that appellant's total disability from November 17 through December 22, 1994 is causally related to her employment injury of May 25, 1994. The opinions are based on a proper background and history of injury and Dr. Krout's opinion, in particular, explained the reason appellant's May 25, 1994 employment injury resulted in her being taken off work during this period. He noted that a period of physical therapy was appropriate treatment prior to surgery in light of the severity of her shoulder impingement. After the period of physical therapy, surgery was performed on June 9, 1995 for a torn rotator cuff of the left shoulder, a condition accepted by the Office as causally related to the May 25, 1994 employment incident. There is no medical opinion evidence to the contrary. The Board finds that the medical opinion evidence is sufficiently well rationalized to establish appellant's entitlement to compensation for total disability for the period of November 17 through December 22, 1994.

¹ 5 U.S.C. §§ 8101-8193.

² *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

The December 19, 1995 decision of the Office of Workers' Compensation Programs is reversed.

Dated, Washington, D.C.
March 24, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member