

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BETTY S. SIMPSON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS HOSPITAL, Asheville, N.C.

*Docket No. 95-2868; Submitted on the Record;
Issued May 11, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability on December 15, 1993 causally related to her June 14, 1989 employment injury.

The Board has duly reviewed the case on appeal and finds that the case is not in posture for decision.

Appellant filed a claim on June 14, 1989 alleging that she injured her wrist turning a patient in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for sprain left wrist and C7 radiculopathy. The Office entered appellant on the periodic rolls on April 17, 1990. Appellant returned to regular duty on August 10, 1990 and sustained a recurrence of disability in November 1990. The Office reentered appellant on the periodic rolls on December 19, 1990. Appellant returned to light-duty work on December 13, 1993. Appellant filed a claim on December 16, 1993 alleging a recurrence of disability on December 15, 1993. The Office denied appellant's claim by decision dated March 8, 1994. Appellant requested an oral hearing and by decision dated February 28 and finalized March 2, 1995, the hearing representative affirmed the Office's March 8, 1994 decision. Appellant requested reconsideration on May 26, 1995 and the Office denied modification of the March 2, 1995 decision on August 3, 1995.

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 of record establish that she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that she cannot perform such light duty. As part of this burden, the employee must show 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.¹ Furthermore, appellant has the burden of establishing by the weight of the substantial, reliable, and probative evidence, a causal relationship between her recurrence of disability commencing December 15, 1993 and her June 14, 1989 employment injury.² This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.³

Appellant has submitted medical evidence in an attempt to establish a change in the nature and extent of her injury-related condition. In a report dated January 5, 1994, Dr. Steven M. Stranges, a Board-certified neurosurgeon, noted that appellant attempted to return to work in December and that she did not have an acute exacerbation of her pain, but that she stated she was unable to do the job required of her. Dr. Stranges noted inconsistent findings on examination and concluded that appellant had no objective neurological disability. This report is not sufficient to meet appellant's burden of proof as Dr. Stranges did not opine that her employment-related condition had changed such that she was no longer able to perform the duties of her light-duty position.

Appellant submitted a series of reports from Dr. Ronald R. Caldwell, a Board-certified internist. In a note dated July 29, 1994, Dr. Caldwell noted appellant's marked stress secondary to denial of medical benefits and legal problems related to disability. He found appellant's blood pressure to be 150/100 and diagnosed hypertension. In a report dated October 27, 1994, Dr. Caldwell noted that he first examined appellant in April 1990 and that she did not have blood pressure problems at that time. He noted that prior to her neck injury appellant did not have hypertension and stated that due to the severe pain caused by her cervical disc condition her blood pressure was significantly elevated. Dr. Caldwell stated that patients with a genetic predisposition to hypertension could have this condition aggravated if under significant emotional stress or experiencing severe pain. He stated, "The fact that [appellant] was experiencing both of these conditions, in addition to loss of employment with uncertainty about the outcome of her surgery, is without a doubt contributing to her acute problem with hypertension." Dr. Caldwell stated that since her injury he had adjusted appellant's medication on multiple occasions and that during episodes of acute pain from her cervical disc disease her blood pressure would raise accordingly. Dr. Caldwell reported on December 13, 1994 that appellant had no history of hypertension prior to her employment injury. He stated, "In view of the severity of the pain associated with the inability to work and the need for surgery to correct her condition which did not improve with conservative therapy, the new onset of rather severe hypertension became apparent. This temporal relationship to her injury would lead one to believe that these factors are the primary precipitating factors in the presentation of her hypertension." Dr. Caldwell also attributed appellant's hypertension to significant anxiety and financial hardships imposed by her employment injury.

¹ *Terry R. Hedman*, 38 ECAB 222 (1986).

² *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

³ *See Nicolea Brusio*, 33 ECAB 1138, 1140 (1982).

In a report dated May 20, 1995, Dr. Caldwell stated that appellant did not have hypertension prior to her June 14, 1989 employment injury and that she currently had symptomatic severe hypertension. He opined that there was a causal and temporal relationship of her injury to the subsequent development of severe hypertension. Dr. Caldwell stated:

“Due to the pain from her injury and its subsequent physiological sequelae, the release of various hormones throughout the body raising the blood pressure of this patient, several conditions have subsequently developed. She has developed moderate to severe left ventricular hypertrophy, which is a complication of hypertension increasing the likelihood of her experiencing a myocardial infarction due to hypertension.”

He stated that if appellant was able to return to work the pain she would endure would also cause a “likely cardiovascular complication such as stroke or heart attack.”

Dr. Caldwell stated that after stabilization of appellant’s blood pressure prior to December 15, 1993 there was a marked deterioration in her condition. He noted that appellant’s disability checks had been discontinued and that her blood pressure significantly elevated to the point that her blood pressure medication had to be increased. He stated in view of the severe pain appellant was experiencing at home that “there is no way she can attempt gainful employment without a major catastrophic event occurring.”

These reports from Dr. Caldwell contain a history of injury, diagnosis and an opinion that appellant’s hypertension was exacerbated by her accepted employment injuries. While these reports are not sufficient to meet appellant’s burden of proof, they do raise an uncontroverted inference of causal relation between appellant’s accepted employment injuries and her diagnosed condition and are sufficient to require the Office to undertake further development of appellant’s claim.⁴

On remand the Office should refer appellant, a statement of accepted facts, a list of specific questions and the medical evidence of record to an appropriate Board-certified specialist for a well-rationalized report to determine if there is a causal relationship between appellant’s accepted employment injuries and her diagnosed condition of hypertension.

⁴ *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

The decisions of the Office of Workers' Compensation Programs dated August 3 and March 2, 1995 are hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, D.C.
May 11, 1998

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member