U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DEBORAH A. LEWIS and U.S. POSTAL SERVICE,
POST OFFICE, West Palm Beach, Fla.

Docket No. 96-1371; Submitted on the Record;
Issued May 21, 1998

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation effective February 10, 1995 on the grounds that she had no disability due to her February 3, 1992 employment injury after that date.

The Board has duly reviewed the case record in the present appeal and finds that the Office improperly terminated appellant's compensation effective February 10, 1995 on the grounds that she had no disability due to her February 3, 1992 employment injury after that date.

Under the Federal Employees' Compensation Act,[1] once the Office has accepted a claim it has the burden of justifying termination or modification of compensation benefits.[2] The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.[3] The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[4]

In the present case, the Office accepted that appellant sustained an employment-related cervical strain and right knee contusion and sprain on February 3, 1992. By decision date February 10, 1995, the Office terminated appellant's compensation effective that date based on the medical opinion of Dr. Philip D. Lichtblau, a Board-certified orthopedic surgeon to whom the Office referred appellant for evaluation. By decision dated February 9, 1996, the Office denied modification of its February 10, 1995 decision.

---

[1] 5 U.S.C. §§ 8101-8193.

[2] *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

[3] *Id.*

[4] *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

In a report dated March 10, 1993 and a supplemental report dated September 8, 1994, Dr. Lichtblau indicated that appellant ceased to have residuals of her February 3, 1992 employment injury and could return to her regular work for the employing establishment. The Board has carefully reviewed the reports of Dr. Lichtblau and notes that they are not sufficient to carry the weight of the medical evidence on the relevant issue of the present case in that they do not contain sufficient medical rationale in support of their conclusions on causal relationship.[5] Dr. Lichtblau did not adequately explain why appellant would no longer have residuals of her February 3, 1992 employment injury, cervical strain and right knee contusion and sprain. Although he indicated that appellant's right knee contusion probably "resolved readily," he did not further explain the medical process through which appellant's employment-related cervical and right knee conditions would have resolved. Moreover, Dr. Lichtblau's opinion is of limited probative value for the further reason that it is not based on a complete and accurate factual and medical history.[6] He did not describe the nature of the accepted employment injuries in any detail and generally seemed unclear regarding the conditions which had been accepted by the Office as employment related.[7] Dr. Lichtblau also noted that he was unable to review certain results of diagnostic testing which he suggested were necessary to form his opinion on appellant's condition. For these reasons, Dr. Lichtblau did not provide an adequately rationalized medical opinion that appellant ceased to have residuals of her February 3, 1992 employment injury. Because the Office did not provide an adequate basis for its determination that appellant ceased to have residuals of her February 3, 1992 employment injury after February 10, 1995, the Office did not meet its burden of proof to terminate appellant's compensation effective February 10, 1995.

The decisions of the Office of Workers' Compensation Programs dated February 9, 1996 and February 10, 1995 are reversed.

[5] *See Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

[6] *See William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

[7] For example, Dr. Lichtblau stated that appellant "may have sustained a cervical sprain although this may be a recurrent cervical sprain previously present back in 1988" and noted that "[t]he fall on February 3, 1992 may very well have brought the symptomatology of a cervical sprain once again to the surface."

Dated, Washington, D.C.
May 21, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member