U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SANDRA L. SWAIN and U.S. POSTAL SERVICE,
POST OFFICE, Evansville, Ind.

Docket No. 96-1810; Submitted on the Record;
Issued May 27, 1998

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant had any disabling injury residuals on or after May 7, 1995, causally related to her accepted condition of "dermatitis -- both hands."

On January 29, 1995 appellant, then a 46-year-old letter sorting machine (LSM) operator, filed a claim alleging that in March 1994 she was transferred to the position of LSM operator, and that six months later in September 1994 she began to have skin problems with her hands. She sought medical treatment which did not seem to help, noted that when she was away from work her hands began to improve, but noted that when she returned to work her hands worsened. As of January 12, 1995 appellant could no longer work; she underwent specific testing which demonstrated that she was having a reaction to contact with nickle and rubber containing mercaptobenzothiazole. Environmental testing revealed that the LSM, her locker, the coin changer, faucets in bathrooms, employing establishment handrails, and certain other metal objects in the workplace contained significant levels of nickle. Appellant's treating physicians recommended that she take a temporary leave of absence from her job. Transfer to another area of duty at the employing establishment and the wearing of protective vinyl gloves were also recommended. However, none of appellant's examining physicians discussed the chemical sensitization which led to exacerbations of her symptoms of contact dermatitis of both hands each time she was exposed to nickle or mercaptobenzothiazole, or explained its causal relationship to her chronic exposure over time to nickle and mercaptobenzothiazide in her work as an LSM operator.

An April 28, 1995 medical report noted the recurring erythematous fissuring hand dermatitis when appellant returned to work, and improvement when she was away from work, and advised that appellant should not return to work in light of her continuous exposure to nickle and resultant dermatitis. She was diagnosed as having allergic contact dermatitis.

On May 8, 1995 the employing establishment offered appellant a temporary transfer to the front office to do typing and computer work, which reduced her contact with nickle.

However, appellant continued to experience nondisabling flare-ups of her hand dermatitis when she handled paper clips, metal clipboards, and zippered mail receipt bags throughout that summer.

By decision dated July 28, 1995, the Office rejected appellant's claim finding that the medical evidence failed to establish that appellant developed hand dermatitis from working on the LSM.

On August 17, 1995 appellant, through her representatives, requested reconsideration, and in support submitted further medical evidence. An August 17, 1995 report from Dr. Shari L. Barrett, appellant's treating Board-certified dermatologist, which reviewed in detail her history and opined that her hand condition was causally related to her work site. Dr. Barrett noted that when appellant worked in mail processing, her dermatitis flared up, but that when she was away from work, her hands healed. Dr. Barrett noted that upon appellant's return to the mail processing area even for a short period of time she again became symptomatic, and she opined that it appeared that appellant's sensitization occurred shortly after her transfer to the mail processing area. She did not, however, discuss in detail the process of chemical sensitization, or relate that physiologic process to the periods of appellant's actual work exposures, and to the periods of symptomatic exacerbation, *i.e.,* manifest dermatitis.

On September 27, 1995 the Office vacated its previous order and accepted appellant's claim for the symptom "dermatitis of both hands."

By report dated October 10, 1995, Dr. Barrett noted that appellant must avoid all contact with rubber and/or nickle, that she must use protective gloves when exposed to contactants/irritants, and that permanent effects of her occupational illness would be recurrent dermatitis with exposures. Dr. Barrett opined that appellant's problem could be considered to be a permanent, lifelong condition. She did not, however, clarify what this permanent, lifelong condition was, or differentiate it from appellant's periodically recurring manifest symptoms of contact dermatitis of both hands.

On November 6, 1995 appellant filed a claim for recurrence of disability commencing September 1, 1995 when her temporary limited-duty secretarial position expired, and the employing establishment was no longer able to accommodate her within her medical restrictions.

On December 7, 1995 Dr. Barrett noted that permanent effects of appellant's condition would be recurrent symptomatic dermatitis with exposures, and she indicated that appellant's "problem" would be a lifelong permanent condition. Dr. Barrett did not, however, detail what appellant's condition or "problem" was, or differentiate it from its resultant symptomatology; *i.e.,* appellant's symptomatic recurrent dermatitis upon exposure to the chemicals to which she was previously sensitizied.

Thereafter, the employing establishment inquired of Dr. Barrett of whether the position of training technician was suitable for appellant, and Dr. Barrett replied on December 19, 1995 that if appellant could have a wooden desk, if metal objects that she might need to touch could be coated with an alternative material, and if her contact with metal and rubber could be kept to

an absolute minimum, "thereby creating a safe work environment for her," she should be able to perform the job.

By decision dated January 4, 1996, the Office rejected appellant's recurrence claim finding that appellant's condition had resolved by May 7, 1995 and that she no longer had work-related residuals.

Appellant requested reconsideration and in support submitted a February 1, 1996 report from Dr. Barrett which noted that to a reasonable degree of medical certainty, appellant's condition was caused by her work exposure to nickle and rubber and that her condition did not preexist prior to that exposure. Dr. Barrett did not, however, distinguish between appellant's actual underlying immunological condition and the symptomatology, dermatitis, manifested upon her exposure to nickle and rubber, or explain the relationship between the permanent underlying sensitization and the periodic symptomatic exacerbations of dermatitis upon exposures. Further, Dr. Barrett did not explain the process of sensitization through exposure as it related to her observation that appellant's "condition" did not preexist her occupational exposure.

By decision dated February 15, 1996, the Office denied modification of the prior decision finding that the evidence submitted was not sufficient to warrant modification. The Office found that the prior decision incorrectly found that appellant's condition preexisted her employment, and consequently applied an incorrect standard in denying ongoing benefits. However, the Office found that appellant had fully recovered as of August 1995, and noted that ongoing restrictions were due to an underlying sensitivity to nickle and rubber. The Office did not analyze how appellant developed this underlying sensitivity which remained even after the symptomatic dermatitis cleared.

The Board finds that this case is not in posture for decision.

In the instant case, Dr. Barrett stated that appellant became sensitized to nickle and rubber "shortly after her transfer to the mail processing area," but she failed to explain in detail the physiologic process of chemical sensitization from occupational exposures over a defined period of time and to thoroughly convey that once sensitized, appellant would remain that way, such that any future contact with the specific allergens would definitely cause exacerbation of sensitization symptomatology, *i.e.*, dermatitis, which would preclude appellant from any further occupational exposure to the allergens.

Proceedings under the Act are not adversary in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.[1] This holds true in recurrence claims as well as in initial traumatic and occupational injury claims. In the instant case, although none of appellant's treating physicians' reports address in detail or contain rationale sufficient to completely discharge appellant's burden of proving by the weight of reliable, substantial and probative evidence that she was unable to work as of September 1, 1995

[1] *William J. Cantrell*, 34 ECAB 1223 (1983).

due to her occupational condition, causally related to her 1994 exposure to nickle and rubber, they constitute substantial, uncontradicted evidence in support of appellant's claim and raise an uncontroverted inference of causal relationship between her inability to work regular duty as of September 1994 and her March to September 1994 occupational exposure to nickle and rubber, that is sufficient to require further development of the case record by the Office.[2] Additionally, there is no opposing medical evidence in the record.

As there is no contradictory medical evidence of record suggesting that appellant's dermatitis was a discreet dermatologic occurrence unrelated to a permanent underlying occupational sensitization that occurred between March and September 1994, the case will be remanded for an explanation of the immunologic process involved, and for an opinion as to whether this sensitization ceased by August 1995, or remained, precluding appellant from further exposure to the implicated chemicals on and after September 1, 1995.

Consequently, the decisions of the Office of Workers' Compensation Programs dated February 15 and January 4, 1996 are hereby set aside and the case is remanded for further development in accordance with this decision and order of the Board.

Dated, Washington, D.C.
May 27, 1998

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

[2] *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978); *see also Cheryl A. Monnell*, 40 ECAB 545 (1989); *Bobby W. Hornbuckle*, 38 ECAB 626 (1987) (if medical evidence establishes that residuals of an employment-related impairment are such that they prevent an employee from continuing in the employment, he is entitled to compensation for any loss of wage-earning capacity resulting from such incapacity).