

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of CECELIA M. TAUZIN and U.S. POSTAL SERVICE,  
POST OFFICE, Port Allen, La.

*Docket No. 96-816; Submitted on the Record;  
Issued September 11, 1998*

---

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant's disability and her need for medical treatment causally related to her November 29, 1993 employment injury ended by August 8, 1994.

The Office of Workers' Compensation Programs accepted that appellant's November 29, 1993 motor vehicle accident occurred in the performance of duty and resulted in a cervical strain and a right shoulder strain. Appellant received continuation of pay from December 7, 1993 to January 19, 1994, followed by compensation for temporary total disability beginning January 20, 1994.

By decision dated March 1, 1995, the Office found that appellant's employment-related disability and need for medical treatment ended by August 8, 1994. The Office refused to modify this decision in a decision dated April 18, 1995.

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

The Board finds that the Office met its burden of establishing that appellant's disability and her need for medical treatment causally related to her November 29, 1993 employment injury ended by August 8, 1994.<sup>2</sup>

---

<sup>1</sup> *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

<sup>2</sup> The present decision addresses only the physical effects of the November 29, 1993 employment injury. Appellant also filed a claim for a stress reaction to the November 29, 1993 injury; that claim was separately adjudicated by the Office and is the subject of a separate appeal currently pending before the Board.

In a report dated August 8, 1994, Dr. Gordon P. Nutik, a Board-certified orthopedic surgeon to whom the Office referred appellant, reviewed appellant's history and set forth her complaints and findings on examination. Dr. Nutik concluded:

“From the orthopedic standpoint, I did not feel that the patient had objective clinical findings to indicate disability about the shoulders, elbows, low back, hips or left knee. The examination about the neck, as previously described was limited due to the shaking seen when range of motion was attempted about this patient's cervical spine.”

\* \* \*

“Based on the orthopedic examination, I could not explain why she could not go back to work, but as stated earlier, I am unable to explain the cause of this patient's repeated shaking episodes at the time of this examination and I feel that the shaking may limit her ability to be involved in gainful employment.”

The Board finds that Dr. Nutik's report constitutes the weight of the medical evidence on the issue of whether the physical effects of the November 29, 1993 employment injury ended by August 8, 1994. Although Dr. Steven J. Zuckerman, a Board-certified neurologist, stated in a March 27, 1995 report that appellant was “having ongoing cervical sprain and symptoms related to her neck from her injury in November 1993” and that she was “considered unable to work,” Dr. Zuckerman did not provide any findings on examination to substantiate this opinion. In a report dated September 26, 1994, Dr. Joseph Jankovic, a Board-certified neurologist, noted “bilateral neck spasms, which are fairly constant and are occasionally seen secondary to whiplash injury.” Dr. Jankovic, however, did not positively relate these neck spasms to appellant's November 29, 1993 employment injury, instead stating, “These possibly could have come from one of the previous motor vehicle accidents and would be expected to gradually improve with time.” This opinion is too speculative to show that appellant had, after August 8, 1994, an ongoing physical condition related to her November 29, 1993 employment injury.<sup>3</sup>

---

<sup>3</sup> Dr. Jankovic also noted that appellant had “psychogenic myoclonus and psychogenic tics,” which he considered “a stress-related disorder.” This condition is the subject of a separate claim, and is not addressed by the present appeal.

The decisions of the Office of Workers' Compensation Programs dated April 18 and March 1, 1995 are affirmed.

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

George E. Rivers  
Member

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member