

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DELORIS H. KINSEY and U.S. POSTAL SERVICE,
TRADEPORT ANNEX, Jacksonville, Fla.

*Docket No. 97-2433; Submitted on the Record;
Issued April 26, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
DAVID S. GERSON

The issue is whether the Office of Workers' Compensation Programs properly denied appellant continuation of pay for the period April 4 to May 15, 1996.

On April 3, 1996 appellant, then a 46-year-old temporary flat sorting machine operator, filed a claim for compensation alleging that on that day she sustained an injury to her left toe while in the performance of duty.

In a medical report dated April 16, 1996, Dr. James C. Lovett, Board-certified in emergency medicine, stated that appellant was released to light work on April 3, 1996.

In a medical report dated May 16, 1996, Dr. Mary C. Rellahan, appellant's treating podiatrist, stated that appellant was "unable to return to work until six weeks from today" as a result of "a fracture of the distal phalanx, first left toe."

On May 31, 1996 appellant filed a claim for wage loss from April 3 to May 17, 1996.

In a medical report dated July 8, 1996, Dr. Rellahan stated that appellant was released to resume full duty, six hours daily, effective June 24, 1996.

In a letter dated July 9, 1996, the Office advised appellant that because her treating physician had not determined that she was totally disabled as a result of her accepted injury she was not entitled to continuation of pay.

On July 29, 1996 appellant filed a claim for wage loss from May 16 to June 24, 1996.

In a letter decision dated April 18, 1997, the Office found that appellant was not entitled to continuation of pay from April 4 to May 15, 1996 as the medical evidence of record was insufficient to support total disability from April 3 until May 16, 1996.

The Board finds that the Office properly denied appellant continuation of pay for the period from April 4 to May 15, 1996.¹

A claimant seeking benefits under the Federal Employees' Compensation Act² has the burden of proof to establish the essential elements of her claim by the weight of the evidence, 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 Office accepts that appellant sustained an injury in the performance of duty on April 3, 1996. Appellant must therefore establish that the accepted employment injury caused disability for the period claimed.

“Disability” means incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury.⁴ When the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in her employment, she is entitled to continuation of pay or monetary compensation for any loss of wage-earning capacity resulting from such incapacity.⁵

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a reasoned medical opinion that supports a causal connection between the claimed disability 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 medically how the claimed disability is related to the injury.⁶

The medical evidence in this case contains no such medical opinion. The record also contains evidence that appellant was released to return to light duty effective April 3, 1996, and that she was placed in a total disability status by her treating podiatrist from May 16 to June 24, 1996. Appellant received continuation of pay from May 16 to June 24, 1996. Because the medical evidence fails to support that appellant was disabled from April 4 to May 15, 1996 due to her accepted employment injury, she is not entitled to continuation of pay or monetary compensation for these dates.

The decision of the Office of Workers' Compensation Programs dated April 18, 1997 is hereby affirmed.

¹ The Board notes that the Office stated in its April 18, 1997 decision that “continuation of pay is authorized for the period May 16 to June 24, 1996.”

² 5 U.S.C. §§ 8101-8193.

³ *Diane Williams*, 47 ECAB 613 (1996).

⁴ *Corlisa Sims*, 46 ECAB 963 (1995); 20 C.F.R. § 10.5(17).

⁵ *Clement Jay After Buffalo*, 45 ECAB 707 (1994); 20 C.F.R. § 10.201.

⁶ *Charles E. Burke*, 47 ECAB 185 (1995).

Dated, Washington, D.C.
April 26, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

David S. Gerson
Member