

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIANE VEENEY and U.S. POSTAL SERVICE,
POST OFFICE, Plainfield, NJ

*Docket No. 97-2634; Submitted on the Record;
Issued August 25, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant continued to be disabled after May 3, 1997 due to the May 18, 1995 employment injury.

The Board has duly reviewed the case record in the present appeal and finds that appellant did not meet her burden of proof.

On May 18, 1995 appellant, then a 34-year-old letter carrier, sustained cervical and lumbosacral strains, left buttock contusions and herniated discs at L4-5 and L5-S1 when she was chased by a dog and fell into the street. She received appropriate continuation of pay and compensation and returned to light duty on December 11, 1995.¹ Following further development, by decision dated May 3, 1997, the Office of Workers' Compensation Programs found that appellant had no further disability causally related to the May 18, 1995 employment injury. The Office based its decision on a March 17, 1997 report from appellant's treating Board-certified orthopedic surgeon, Dr. Cary D. Glastein, who advised that appellant's condition was causally related to an employment-related motor vehicle accident.² The instant appeal follows.

Causal relationship is a medical issue³ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated

¹ Appellant also filed a claim on February 24, 1997 for five hours and fifteen minutes of compensation for that day, for which she received compensation.

² The Office advised appellant that, if she had not done so, she could file a claim for the motor vehicle accident referenced by Dr. Glastein.

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴ Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁵

The medical evidence in this case includes treatment notes and reports from appellant's treating family practitioner, Dr. Dennis Cardone and Dr. Glastein. These reports, however, do not contain an opinion that appellant continued to be disabled due to the May 18, 1995 employment injury. In a March 17, 1997 report, Dr. Glastein advised:

“[Appellant] has been seen in this office on a number of occasions by me and Dr. Cardone. [She] was complaining of lower back pain and a workup, including an MRI [magnetic resonance imaging] [scan] on September 7, 1995 revealed a disc herniation at L4-5 and L5-S1.... [She] was involved in a motor vehicle accident while working for the [employing establishment] and in my opinion, the disc herniations and complaints of pain into her back and legs were causally related to this motor vehicle accident. The MRI clearly documents her disc herniations.”

While the record contains numerous reports, none contains an opinion that appellant continued to be disabled from the May 18, 1995 employment injury.⁶ She, therefore, failed to establish that she had any employment-related disability.

⁴ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

⁶ The Board notes that Dr. Glastein submitted an August 28, 1997 report in which he amended the March 17, 1997 report. The Board, however, cannot consider this evidence as its review of the case is limited to the evidence of record which was before the Office at the time of its May 3, 1997 decision. 20 C.F.R. § 501.2(c). Appellant may, however, submit a request for reconsideration to the Office to consider this evidence.

The decision of the Office of Workers' Compensation Programs dated May 3, 1997 is hereby affirmed.

Dated, Washington, D.C.
August 25, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member