

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARMEN HALL and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Cleveland, OH

*Docket No. 99-1783; Submitted on the Record;
Issued December 3, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established an employment-related disability commencing May 18, 1994.

The case has been before the Board on a prior appeal. In a decision dated December 11, 1997, the Board found that the decision of the Office of Workers' Compensation Programs' hearing representative dated June 12, 1995 was in accord with the facts and the law, and the Board adopted the decision.¹ In the June 12, 1995 decision, the hearing representative had affirmed a May 18, 1994 Office decision terminating appellant's compensation benefits on the grounds that her employment injuries had resolved. The facts of the case are contained in the June 12, 1995 decision and are incorporated herein by reference.

In a letter dated December 10, 1998, appellant requested reconsideration of her claim. She submitted a report dated October 23, 1998 from Dr. Robert D. Zaas, an orthopedic surgeon.

By decision dated March 8, 1999, the Office determined that the evidence was insufficient to warrant modification of the prior decisions.

The Board has reviewed the record and finds that appellant has not established a continuing employment-related condition after May 18, 1994.

After termination or modification of benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to appellant. In order to prevail, appellant must establish by the weight of the reliable, probative and substantial evidence that she had an employment-related disability which continued after termination of compensation benefits.² In this case, the Board affirmed the Office decision terminating compensation benefits,

¹ Docket No. 95-3036.

² *Talmadge Miller*, 47 ECAB 673, 679 (1996); *see also George Servetas*, 43 ECAB 424 (1992).

and therefore the burden shifted to appellant to establish a continuing employment-related condition.

In his October 23, 1998 report, Dr. Zaas provided a history and results on examination. He stated that appellant “apparently was disabled from work from 1986 to August 1, 1997,” without providing additional explanation or medical rationale for this statement. Dr. Zaas noted that appellant complained of back pain radiating to her legs, and he recommended a magnetic resonance imaging scan, but he does not provide a reasoned medical opinion that appellant was disabled for work due to her employment injury during the period commencing May 18, 1994.

It is, as noted above, appellant’s burden of proof to establish entitlement to compensation on and after May 18, 1994. The evidence submitted is not sufficient to meet her burden in this case.

The decision of the Office of Workers’ Compensation Programs dated March 8, 1999 is affirmed.

Dated, Washington, D.C.
December 3, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member