

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY J. GONZALEZ and DEPARTMENT OF THE AIR FORCE,
LACKLAND AIR FORCE BASE, Tex.

*Docket No. 97-1843; Submitted on the Record;
Issued March 5, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established disability on or after January 20, 1995 causally related to her employment injury.

In the present case, appellant filed a claim alleging that she sustained a lower back injury in the performance of duty on January 17, 1995 when she was pulling out a cart of medical instruments. The Office of Workers' Compensation Programs accepted the claim for lumbar strain. The record indicates that appellant returned to a full-time light-duty position on March 28, 1995, then worked from April 3 to June 28, 1995 at four hours per day, then stopped working until August 23, 1995.

By decision dated July 6, 1995, the Office determined that appellant had not established any disability on or after January 20, 1995 as employment related. This decision was affirmed by a hearing representative in a decision dated August 8, 1996. Appellant requested reconsideration and submitted additional medical evidence. In a decision dated January 15, 1997, the Office reviewed the case on its merits and denied modification.

The Board finds that the case is not in posture for decision as appellant has submitted sufficient medical evidence to require further development.

In this case, the Office accepted a lumbar strain in the performance of duty on January 17, 1995. An employing establishment physician, Dr. Thomas A. Sames, diagnosed acute lumbar strain in a January 18, 1995 Form CA-16 and indicated that appellant could return to regular duty on January 20, 1995. Appellant did not return to work and continued to receive medical treatment. In a report dated January 26, 1995, Dr. Rafael Parra, a Board-certified neurosurgeon, provided a history of injury and diagnosed low back injury with left leg radiculopathy. He indicated that appellant was advised to undergo a magnetic resonance imaging (MRI) scan, and the record contains an MRI scan report dated February 21, 1995, finding degenerative disc disease at L4-5 and L5-S1, right paracentral small disc protrusion at L4-5 and mild disc bulge at L5-S1. In a form report (Form CA-20a) dated March 24, 1995, Dr. Alvarado diagnosed herniated nucleus pulposus and checked a box "yes" that the condition was causally related to the employment injury.

In a report dated April 1, 1996, Dr. Parra indicated that a computerized tomography scan on May 28, 1993 had shown degenerative disc disease, with no herniation, but the February 21, 1995 MRI had revealed an L4-5 paracentral disc herniation. He further stated, "disc herniation of L4-5 is a recent one and is related to the injury of January 17, 1995; since this was not present previously." In a report dated October 3, 1996, Dr. Parra stated:

"The issue in this case has been addressed as whether or not the claimant was disabled for a period beginning January 20, 1995 as a result of a January 17, 1995 work injury. The answer is 'yes' this patient's problems are related to the injury sustained while on the job on January 17, 1995.

"[Appellant] was pulling a cart of instruments on January 17, 1995 when she began having low back pain with lower extremity radiculopathy. The mechanics of this incident is the 'pulling' of the cart which resulted in a disc herniation."

The Board finds that the uncontradicted medical evidence is sufficient to require further development of the evidence.¹ On remand, the Office should further develop the medical evidence on the issue of whether appellant had a herniated disc or other condition causally related to her employment injury, and if so, the nature and extent of any disability for work on or after January 20, 1995. After such further development as the Office deems necessary, it should issue an appropriate decision.

The decision of the Office of Workers' Compensation Programs dated January 15, 1997 is set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, D.C.
March 5, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

¹ See *Robert A. Redmond*, 40 ECAB 796 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).