

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DEBRA GORTON and U.S. POSTAL SERVICE,  
POST OFFICE, Orlando, FL

*Docket No. 99-650; Submitted on the Record;  
Issued November 8, 1999*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant has any continuing disability causally related to her accepted employment injury on or after February 16, 1994 the date the Office of Workers' Compensation Programs terminated her compensation benefits.

The Board has duly reviewed the case on appeal and finds that appellant has not established continuing disability or medical residuals on or after February 16, 1994.

This case has previously been before the Board on appeal. In a decision dated July 18, 1996,<sup>1</sup> the Board found that the Office met its burden of proof to terminate appellant's compensation benefits effective February 16, 1994. The Board found that the Office terminated appellant's compensation benefits based on the opinion of the impartial medical specialist, Dr. Lionel Foncea, a Board-certified orthopedic surgeon.

Following the Board's July 18, 1996 decision, appellant submitted additional evidence and requested reconsideration. By decision dated November 14, 1996, the Office denied modification of its prior decision. Appellant, through her attorney, requested reconsideration on November 11, 1997. The Office reviewed appellant's claim on the merits on December 15, 1997.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that she had continuing disability causally related to her accepted employment injury.<sup>2</sup> To establish a causal relationship between the condition, as well as any disability claimed and the employment injury, the employee must submit rationalized medical opinion evidence, based on a complete factual background, supporting such a causal

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<sup>1</sup> Docket No. 94-2086.

<sup>2</sup> *George Servetas*, 43 ECAB 424, 430 (1992).

relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>3</sup>

In support of her claim, appellant submitted additional medical evidence. In treatment notes dated May 24 and August 5, 1996, Dr. Howard S. Buchoff, a Board-certified rheumatologist, noted appellant's continuing symptoms. Dr. Buchoff did not provide an opinion on the causal relationship between appellant's diagnosed condition of fibromyalgia and her accepted employment injury. Therefore, these notes are not sufficient to meet appellant's burden of proof.

In notes dated February 27 and March 28, 1996, Dr. Howard L. Offenber, a Board-certified internist, diagnosed fibromyalgia and stated that there was no specifically known cause although some physicians attributed the condition to stress. On April 29, 1996 Dr. Yong H. Tsai, a Board-certified allergist and immunologist, stated that he was treating appellant for fibromyalgia and that the etiology of her condition was unclear. These notes are not sufficient to meet appellant's burden of proof as the physicians did not attribute appellant's condition to her accepted employment injury of aggravation of the fibrositis of both wrists or other employment activities.

Appellant submitted notes from Dr. Anthony F. Kirkpatrick, an anesthesiologist, dated August 1 and September 13, 1996. He diagnosed myofascial pain and fibromyalgia and stated that "more likely than not" appellant's current medical condition was related to her employment. This report is not sufficient to meet appellant's burden of proof as Dr. Kirkpatrick did not provide any medical reasoning for his conclusion that appellant's diagnosed condition was causally related to her employment.

In a report dated August 14, 1997, Dr. Patricia L. Maclay, a Board-certified internist, opined that a rheumatologist was better able to diagnose and treat fibromyalgia than an orthopedic surgeon. She further disagreed with Dr. Foncea's report as she felt that he did not consider ancillary findings in taking appellant's history. Dr. Maclay opined that appellant's fibromyalgia was causally related to her job activity of pitching magazines as well as keying in data. She also attributed appellant's condition to her experiences in pursuing her claim before the Office. Dr. Maclay stated that fibromyalgia was linked to abnormalities of the autonomic nervous system which frequently occur due to prolonged stress. She stated, "This patient's stress, beginning in March 1990 and continued through the litigation to the present, would easily explain the onset and persistence of her symptomatology." Dr. Maclay stated, "More than

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<sup>3</sup> *James Mack*, 43 ECAB 321 (1991).

anything I believe the stress of termination of employment, as well as the ongoing litigation has caused the disease to persist and exacerbate.”

While Dr. Maclay attributed appellant’s fibromyalgia to her employment activities, she did not provide any medical rationale explaining how these duties caused or contributed to appellant’s condition. Instead she emphasized the role of stress in fibromyalgia and indicated that appellant’s source of stress was her ongoing claim with the Office. The Board has held that the processing of compensation claims bears no relation to appellant’s regular or specially assigned duties and that therefore, this does not constitute a compensable factor of employment.<sup>4</sup> Therefore, any stress-related condition resulting from her interaction with the Office does not entitle appellant to compensation benefits.

As appellant has failed to submit the necessary rationalized medical opinion evidence establishing a causal relationship between her diagnosed condition of fibromyalgia and her employment, she has failed to meet her burden of proof in establishing continuing disability.

The decision of the Office of Workers’ Compensation Programs dated December 15, 1997 is hereby affirmed.

Dated, Washington, D.C.  
November 8, 1999

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>4</sup> *Donna J. DiBernardo*, 47 ECAB 700, 704 (1996).