

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLEY COLEMAN and TENNESSEE VALLEY AUTHORITY,  
ALLEN FOSSIL PLANT, Memphis, TN

*Docket No. 99-340; Submitted on the Record;  
Issued September 10, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs met its burden of proof in terminating appellant's compensation benefits effective January 8, 1998 on the grounds that he had no disability or medical condition after that date causally related to his April 20, 1997 employment injury.

On April 20, 1997 appellant, then a 47-year-old conveyor car dumper operator, sustained a right wrist sprain in the performance of duty.

In notes dated July 1, 1997, Dr. Ephriam B. Wilkinson, Jr., a Board-certified orthopedic surgeon, indicated that he had interviewed appellant for the history of his condition and had reviewed his chart. Dr. Wilkinson stated that appellant had no clicking in his right wrist, no real apprehension on forced ulnar deviation and grind, no swelling, no redness, and no limitation of motion. He stated that appellant had excellent flexion and extension of the wrist and yet stated that his wrist hurt and he could not lift anything. Dr. Wilkinson stated that he was going to schedule an arthrogram "for completeness sake" because a magnetic resonance imaging (MRI) scan was suggestive of a tear.

In notes dated July 15, 1997, Dr. Wilkinson related that appellant had a "perfectly normal" arthrogram which he felt was more significant than the questionable tear on the MRI scan.

In notes dated September 9, 1997, Dr. Wilkinson stated that appellant was complaining of wrist pain but that he could find no induration, no crepitus, no instability, no redness, no fullness, and only vague tenderness and good motion. He indicated that he was unable to find any objective evidence to support appellant's complaints but would run another test, a bone scan. He advised that appellant could perform full duties at work.

In notes dated September 16, 1997, Dr. Wilkinson stated that appellant still had no objective findings and that the bone scan was “not significant at all.” He indicated that appellant could perform full duties at work.

By decision dated January 8, 1998, the Office terminated appellant’s compensation benefits effective that date on the grounds that the evidence of record established that his disability causally related to his April 20, 1997 employment injury had resolved as of the decision date.

By letter dated February 2, 1998, appellant requested reconsideration of the denial of his claim and submitted additional evidence.

In a report dated February 13, 1998, Dr. Donald C. Henard, a Board-certified orthopedic surgeon, provided a history of appellant’s condition and noted his complaint of wrist pain. He provided findings on examination and stated that a June 20, 1997 MRI scan showed likely tears of the triangular fibrocartilage with thinning suggestive of a chronic degenerative process with an acute avulsion injury. He diagnosed a tear of the triangular fibrocartilage of the right wrist and stated that, because of appellant’s persistent symptoms, he needed arthroscopic surgery.

In a report dated June 2, 1998, Dr. William L. Bourland, a Board-certified orthopedic surgeon, provided a history of appellant’s condition and related his complaint of wrist pain. Dr. Bourland provided findings on examination and diagnosed a probable tear of the triangular fibrocartilage of the right wrist.

By decision dated July 10, 1998, the Office denied modification of its January 8, 1998 decision.

The Board finds that the Office met its burden of proof in terminating appellant’s compensation benefits.

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>1</sup> The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.<sup>2</sup> The Office’s burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>3</sup>

In this case, appellant sustained a right wrist sprain in the performance of duty on April 20, 1997.

In notes dated July 1, 1997, Dr. Wilkinson, a Board-certified orthopedic surgeon, stated that he had interviewed appellant concerning the history of his condition and had reviewed his

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<sup>1</sup> *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

<sup>2</sup> *Id.*

<sup>3</sup> *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

chart. He stated that appellant had no clicking in his right wrist, no real apprehension on forced ulnar deviation and grind, no swelling, no redness, and no limitation of motion. Dr. Wilkinson stated that appellant had excellent flexion and extension of the wrist and yet stated that his wrist hurt and he could not lift anything.

In notes dated July 15, 1997, Dr. Wilkinson related that appellant had a “perfectly normal” arthrogram which he felt was more significant than a questionable tear which had appeared on an MRI scan.

In notes dated September 9, 1997, Dr. Wilkinson stated that he could find no induration, no crepitus, no instability, no redness, no fullness, and only vague tenderness and good motion in appellant’s wrist. He indicated that he was unable to find any objective evidence to support appellant’s complaints and advised that appellant could perform full duties at work.

In notes dated September 16, 1997, Dr. Wilkinson stated that appellant still had no objective findings following a bone scan. He indicated that appellant could perform full duties at work.

The Board finds that the Office properly terminated appellant’s compensation benefits based upon the opinion of Dr. Wilkinson that appellant had no residual disability or medical condition causally related to his 1997 employment-related wrist sprain. Dr. Wilkinson based his opinion upon a thorough evaluation of appellant’s condition including a history of his condition and treatment, physical findings on examination, and the results of several objective tests and is sufficient to establish that appellant’s employment injury had resolved.

After termination or modification of compensation 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 he or she had an employment-related disability which continued after termination of compensation benefits.<sup>4</sup>

Following the Office’s termination of his compensation benefits, appellant submitted additional medical evidence. In a report dated February 13, 1998, Dr. Henard, a Board-certified orthopedic surgeon, provided a history of appellant’s condition and noted his complaint of wrist pain. Dr. Henard provided findings on examination and stated that a June 20, 1997 MRI scan of the right wrist showed likely tears of the triangular fibrocartilage with thinning suggestive of a chronic degenerative process with an acute avulsion injury. He diagnosed a tear of the triangular fibrocartilage of the right wrist and stated that, because of appellant’s persistent symptoms, he felt that he needed arthroscopic surgery of the wrist. However, Dr. Henard did not provide sufficient medical rationale explaining how this tear of the triangular fibrocartilage diagnosed in February 1998 was causally related to appellant’s April 1997 employment-related wrist sprain. Therefore, this report is not sufficient to establish that appellant had any continuing disability or medical condition causally related to his 1997 employment injury.

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<sup>4</sup> *Wentworth M. Murray*, 7 ECAB 570, 572 (1955).

In a report dated June 2, 1998, Dr. Bourland, a Board-certified orthopedic surgeon, provided a history of appellant's condition and related appellant's complaint of right wrist pain. Dr. Bourland provided findings on examination and diagnosed a probable tear of the triangular fibrocartilage of the right wrist. However, he provided insufficient medical rationale explaining how this condition was causally related to appellant's 1997 employment injury and therefore this report does not discharge appellant's burden of proof.

The July 10 and January 8, 1998 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.  
September 10, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Michael E. Groom  
Alternate Member