

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BONNIE M. HALLEY and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER,
Kansas City, MO

*Docket No. 99-558; Submitted on the Record;
Issued December 26, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, PRISCILLA ANNE SCHWAB,
VALERIE D. EVANS-HARRELL

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation, effective August 17, 1997, on the grounds that she refused an offer of suitable work.

The Board has given careful consideration to the issue involved, appellant's contentions on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office dated August 5, 1998 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.¹

¹ Pursuant to 5 U.S.C. § 8106(c)(2), the Office may terminate the compensation of an employee who refuses or neglects to work after suitable work is offered to, procured by, or secured for the employee. To justify termination of compensation, the Office must show that the work offered was suitable. *Patrick A. Santucci*, 40 ECAB 151 (1988). Additionally, the Office must inform an employee of the consequences of refusal to accept such employment. See *Maggie L. Moore*, 42 ECAB 484 (1991), *reaff'd on recon.*, 43 ECAB 818 (1992). An employee who refuses or neglects to work after suitable work has been offered or secured for her has the burden of showing that such refusal or failure to work was reasonable or justified. 20 C.F.R. § 10.124(c). The employee shall be provided the opportunity to make such a showing before entitlement to compensation is terminated. *John E. Lemker*, 45 ECAB 258, 263 (1993). Office procedures state that acceptable reasons for refusing an offered position include withdrawal of the offer or medical evidence of inability to do the work or travel to the job. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reemployment: Determining Wage-Earning Capacity*, Chapter 2.814.5 (May 1996); see *C.W. Hopkins*, 47 ECAB 725, 727 n. 5 (1996). Once the Office advises an employee that her reasons for refusing an offered position are unacceptable and she is given an opportunity to accept the position or have compensation terminated, the employee submits further reasons and supporting evidence at her own risk. *Rosie E. Garner*, 48 ECAB 220, 225 (1996).

The decision of the Office of Workers' Compensation Programs dated August 5, 1998 is hereby affirmed.

Dated, Washington, DC
December 26, 2000

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member

Valerie D. Evans-Harrell
Alternate Member