

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROLYN R. SCHULTZ and U.S. POSTAL SERVICE,
MADISON POST OFFICE, Madison, WI

*Docket No. 98-1935; Submitted on the Record;
Issued February 24, 2000*

DECISION and ORDER

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

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation effective September 5, 1997.

The Board has duly reviewed the case record in this appeal and finds that the Office properly terminated appellant's compensation effective September 5, 1997.

On January 14, 1994 appellant, then a 35-year-old manual clerk, filed a traumatic injury claim (Form CA-1) alleging that on January 10, 1994 she injured her left wrist while opening bundles of mail.¹

The Office accepted appellant's claim for tendinitis of the left wrist.

By letter dated April 23, 1997, the Office referred appellant along with a statement of accepted facts, medical records and a list of specific questions to Dr. Robert H.N. Fielden, a Board-certified orthopedic surgeon, for a second opinion examination to determine whether appellant had any continuing disability causally related to her accepted condition of tendinitis of the left wrist. By letter of the same date, the Office advised Dr. Fielden of the referral.

Dr. Fielden submitted a May 29, 1997 medical report revealing that appellant no longer had any disability causally related to her accepted employment injury and that there was no reason to place restrictions on appellant's activities.

In a notice of proposed termination of compensation dated August 4, 1997, the Office advised appellant that it proposed to terminate her compensation based on Dr. Fielden's medical

¹ Appellant received continuation of pay during the period February 10 through March 26, 1994. The Office paid claimant compensation for wage loss beginning March 27, 1994. She returned to part-time light-duty work for four hours per day on July 6, 1994. Appellant stopped work on August 1, 1994. She returned to work for four hours per day on September 1, 1994. By letter dated November 22, 1994, the employing establishment advised the Office that appellant, a transitional employee, was not rehired at the expiration of her 350-day appointment on October 30, 1994. The Office commenced payment of temporary total disability compensation at that time.

opinion. The Office also advised appellant to submit additional medical evidence supportive of her continued disability within 30 days. In response, appellant submitted an August 29, 1997 letter disagreeing with the Office's proposal and Dr. Fielden's findings.

By decision dated September 4, 1997, the Office terminated appellant's compensation effective September 5, 1997 on the grounds that Dr. Fielden's medical opinion established that appellant was no longer disabled due to her January 10, 1994 employment injury.

In a September 29, 1997 letter, appellant requested a review of the written record by an Office representative.

By decision dated March 10, 1998, a hearing representative affirmed the Office's decision.

Once the Office has accepted a claim and pays compensation, it has the burden of proof of justifying termination or modification of compensation benefits.² After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.³

In his May 29, 1997 medical report, Dr. Fielden provided a history of appellant's employment, previous right wrist injury, January 10, 1994 employment injury and medical treatment. He noted appellant's physical activities. Dr. Fielden indicated his normal findings on physical examination and a review of medical records. He stated that on examination there were no objective findings of any abnormality of appellant's arms, hands and shoulders. Dr. Fielden noted that there was never any finding of abnormality other than appellant's complaints of rather bizarre symptoms and that it was difficult to accept the restriction of appellant based on her own demands as to what she could and could not do. He opined:

"There was absolutely nothing to find wrong with [appellant] and it appears to me that this is aiding and abetting a disability. I do n[o]t feel [appellant's] condition is related to work at all. I feel it is a self-induced disorder of chronic pain for whatever reasons that may be involved in this. Again, [appellant's] exam[ination] is totally normal. Strength is normal. Reflexes are normal. Sensation is normal. Motion is normal. I do n[o]t find any reason to place any restrictions on [appellant's] activities."

Dr. Fielden concluded that appellant's prognosis was going to be guarded until a program was entertained and appellant requested assistance in pain management. He further concluded that based on appellant's presentation on that day, she seemed to be quite content to live within these restrictions.

Regarding appellant's allegation that she remains totally disabled due to her January 10, 1994 employment injury, the Office received the August 22, 1997 medical treatment notes of

² *Curtis Hall*, 45 ECAB 316 (1994); *John E. Lemker*, 45 ECAB 258 (1993); *Robert C. Fay*, 39 ECAB 163 (1987).

³ *Jason C. Armstrong*, 40 ECAB 907 (1989).

Dr. C. Christine Cox, a Board-certified internist and appellant's treating physician. In these treatment notes, Dr. Cox indicated appellant's complaints and her findings on physical examination. She stated that appellant had ongoing chronic pain based on overuse syndrome despite not using her hands for two years. Dr. Cox further stated that she agreed it was quite difficult because most of appellant's symptoms were subjective in terms of pain and some mild soft tissue swelling that was perceived by appellant. She reiterated her findings and medical opinion in an August 22, 1997 letter.

The August 22, 1997 medical treatment notes and letter of Dr. Cox failed to explain how or why appellant continued to be totally disabled due to her accepted employment injury. Therefore, they are insufficient to establish that appellant has any disability due to her January 10, 1994 employment injury.

The Board finds that Dr. Fielden's opinion is well rationalized to support a finding that appellant is no longer disabled due to her accepted January 10, 1994 employment injury, and based on a proper factual and medical background. Inasmuch as Dr. Fielden's opinion constitutes the weight of the reliable, probative and substantial evidence, the Board finds that the Office properly terminated appellant's compensation benefits effective September 5, 1997.

The March 10, 1998 and September 4, 1997 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
February 24, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member