

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CARLA M. BALDWIN and U.S. POSTAL SERVICE,  
POST OFFICE, Grand Rapids, MI

*Docket No. 97-2592; Submitted on the Record;  
Issued January 31, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she was totally disabled on and after December 28, 1996 due to her accepted December 28, 1996 employment injury.

On February 14, 1997 appellant, then a 32-year-old rural carrier assistant, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that on December 28, 1996, her motor vehicle spun into a ditch and tipped into a tree as a result of ice and slushy road conditions. Appellant stated that she suffered muscle strain and bruises to her right shoulder, left leg, left ankle and hurt her back. Her Form CA-1 indicates that she stopped work on December 28, 1996 and sought medical treatment. Appellant's Form CA-1 additionally indicates that she only worked Saturdays and had told her supervisor that she was unable to work after the accident as she had no motor vehicle. On March 15, 1997 appellant filed a Form CA-7 claiming compensation for wage loss from December 28, 1996 through March 15, 1997.

On April 14, 1997 the Office of Workers' Compensation Programs accepted the claim for a soft tissue injury of the right shoulder and left thigh. The Office also advised appellant that there was no medical evidence on file which supported total disability for work and informed appellant of the type of medical evidence required to support such disability.

Appellant subsequently filed a claim for continuing compensation (Form CA-8) for the period March 16 through March 26, 1997.

By letter dated May 1, 1997, the Office informed appellant that medical evidence was needed to support her claim for disability causally related to the December 28, 1996 employment injury.

In response, appellant submitted a copy of her December 28, 1996 emergency room report which indicated that bed rest was prescribed for one to two days.

Appellant also submitted a May 6, 1997 medical report from Dr. Victoria M. Gaus, a Board-certified physiatrist and appellant's treating physician, who indicated that appellant was totally disabled from work from January 30, 1997, the day she initially saw appellant for the injury to February 26, 1997. She related appellant's total disability to the December 28, 1996 work injury secondary to diffuse soft tissue injury, affecting the right shoulder and left lower extremity, as well as her back. Dr. Gaus stated that "although there were no objective findings, I based her total disability from her subjective complaints." She indicated that she released appellant back to work on February 27, 1997 with restrictions previously in effect from October 1996. An earlier attending physician's report (Form CA-20) dated March 24, 1997 indicated that appellant had been on restricted work duties since February 27, 1997 due to her work-related motor vehicular accident on December 28, 1996.

By decision dated May 27, 1997, the Office rejected appellant's claim, finding that the medical evidence appellant submitted was not sufficient to establish causal relationship between her accepted December 28, 1996 employment injury and the claimed disability periods. The Office therefore denied compensation for the periods December 28, 1996 through March 15, 1997 and March 16 through March 26, 1997.

The Board finds that this case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> As part of this burden, the claimant must present rationalized medical evidence, based upon a complete factual and medical background, showing causal relationship.<sup>3</sup>

In the instant case, the Office accepted that appellant's soft tissue injury of the right shoulder and left thigh arose in the performance of duty. The emergency room reports support the fact that appellant was disabled on December 29 and December 30, 1996 as total bed rest was recommended. Although Dr. Gaus found appellant to be totally disabled during the period January 30 through February 26, 1997, she indicated that her determination was based solely on appellant's subjective symptoms and not on objective findings. However, Dr. Gaus' May 6, 1997 report constitutes sufficient support of appellant's claim to require further development of the record by the Office.

Although the medical evidence submitted by appellant is not sufficient to meet her burden of proof of establishing that her disability was causally related to her accepted employment injury, the medical evidence of record raises an uncontroverted inference of causal relationship between appellant's disability and her accepted employment injury. Given the absence of any opposing medical evidence, the record is sufficient to require further

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Joseph T. Gulla*, 36 ECAB 516 (1985).

development of the claim.<sup>4</sup> On remand, the Office should further develop the medical evidence as to the relationship between appellant's claimed disability and her accepted employment injury. After such further development as the Office deems necessary, it should issue a *de novo* decision.

The decision of the Office of Workers' Compensation Programs dated May 27, 1997 is set aside and the case is remanded for further action in accordance with this decision.

Dated, Washington, D.C.  
January 31, 2000

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).