

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHERRITA D. TRIMBLE and DEPARTMENT OF JUSTICE,
IMMIGRATION & NATURALIZATION SERVICE, Dallas, TX

*Docket No. 00-1121; Submitted on the Record;
Issued July 14, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant's employment-related disability ended by November 13, 1993.

This case has previously been before the Board on appeal. In a decision and order dated February 21, 1997, the Board found that the Office of Workers' Compensation Programs did not meet its burden of proof to terminate appellant's compensation effective November 13, 1993, as there was an unresolved conflict of medical opinion on the question of whether her employment-related disability ended by that date.¹

On July 3, 1997 appellant submitted additional medical evidence, consisting of a November 8, 1996 report from Dr. R. Frank Morrison, a Board-certified psychiatrist, describing results of an electromyogram (EMG) performed that day and a December 12, 1996 report from Dr. E. Olayinka Ogunro, a Board-certified orthopedic surgeon. On July 30, 1997 the Office referred appellant, the case record and a statement of accepted facts to Dr. Daniel J. Hopson, a Board-certified neurologist, to resolve the conflict of medical opinion. Dr. Hopson submitted a report dated November 18, 1997, accompanied by results of an (EMG)/nerve conduction velocity study done on August 18, 1997, which he considered normal with no evidence of neuropathy, carpal tunnel syndrome or nerve entrapment. Also accompanying the November 18, 1997 report was a work tolerance limitations form indicating that appellant had no limitations and that she could perform repetitive motions of the wrist and elbow. In the November 18, 1997 report, Dr. Hopson set forth appellant's history, symptoms and complaints and described his findings on physical examination, noting that appellant had 5/5 motor strength of her upper extremities, and

¹ Docket No. 95-1282.

“some spotty decreased sensation in her fingers, but this did not follow a peripheral or dermatomal pattern.” After reviewing appellant’s prior medical records, Dr. Hopson stated:

“[Appellant’s] symptoms and complaints which began in 1992 related to repetitive motion demonstrating pain and symptoms consistent with repetitive use syndrome and tenosynovitis, treated with a considerable course of prolonged physical therapy and without indication of focal or musculoskeletal impairment. I believe she received an adequate treatment program provided by multiple physicians.

“There is no indication by multiple EMG/nerve conduction studies of carpal tunnel syndrome or nerve entrapment associated with the injury. There was one EMG report of abnormality but this could not be reproduced by multiple examiners including my EMG/nerve conduction study performed on August 18, 1997.

“The left upper extremity symptoms support a history of possible medical condition but would not be related to the original injury of December 10, 1992.

“Specific answers to questions submitted to my office for review include:

“1. There are no objective findings of a current right carpal tunnel syndrome.

“2. [Appellant] has residual intermittent pain in her hands consistent with tenosynovitis but this in my opinion would not be considered an ongoing total or temporary total disability.

“3. I believe [appellant’s] employment[-]related total disability ended by November 13, 1993.”

By decision dated December 11, 1997, the Office terminated appellant’s compensation effective November 13, 1993 for the reason that she had recovered from her work-related carpal tunnel syndrome.

In situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.²

The Board finds that the weight of the medical evidence establishes that appellant’s employment-related disability ended by November 13, 1993. Dr. Hopson, the Board-certified neurologist selected to resolve a conflict of medical opinion on the issue of whether appellant’s employment-related disability ended, reported in a report of that date that appellant had “no objective findings of a current right carpal tunnel syndrome,” the condition accepted by the Office. Dr. Hopson noted that the November 18, 1996 EMG/nerve conduction study was

² *James P. Roberts*, 31 ECAB 1010 (1980).

abnormal and consistent with bilateral carpal tunnel syndrome, but that “this could not be reproduced by multiple examiners including my EMG/nerve conduction study performed on August 18, 1997.” In his review of the prior medical records Dr. Hopson noted that EMG/nerve conduction studies done on February 24, 1993 and June 9, 1994 were normal. He noted that appellant had “residual intermittent pain in her hands consistent with tenosynovitis,” which is the condition diagnosed by appellant’s attending physician in 1993. Dr. Hopson, however, stated that this condition “would not be considered an ongoing total or temporary total disability” and indicated on an Office work tolerance limitations form that appellant had no limitations. His report was based on an accurate history and his conclusion that appellant was not disabled is supported by his findings on examination and electrodiagnostic testing. Dr. Hopson’s report is sufficient to establish that appellant’s employment-related disability ended by November 13, 1993.

The decision of the Office of Workers’ Compensation Programs dated December 11, 1997 is affirmed.

Dated, Washington, D.C.
July 14, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Michael E. Groom
Alternate Member