

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CATHY D. BONNER and DEPARTMENT OF HOUSING & URBAN
DEVELOPMENT, MULTI-FAMILY HOUSING, Los Angeles, CA

*Docket No. 99-1119; Submitted on the Record;
Issued June 7, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that her disability after August 24, 1998 was causally related to her August 20, 1998 employment injury to her left ankle.

On August 20, 1998 appellant, then a 37-year-old project manager, fell when the heel of her shoe became caught in the wheel runners for the file cabinets. She claimed that she sustained a severe sprained left ankle. Appellant's supervisor indicated that appellant's written claim form, CA-1, was received on September 23, 1998.¹

In a November 12, 1998 decision, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish that the diagnosed condition was causally related to the August 20, 1998 employment incident.

The Board finds that the case is not in posture for decision because the Office did not consider all the evidence submitted in support of appellant's claim.

In submitting her claim, appellant also submitted an August 27, 1998 report from Dr. Edward A. Ridgill, an internist, who stated that appellant was being treated for injuries sustained at work on August 20, 1998. He diagnosed left ankle sprain and left hip strain. He stated that these injuries had rendered appellant temporarily totally disabled and unable to work since August 20, 1998. The Office found that Dr. Ridgill, however, did not state how the employment injury caused the diagnosed conditions and did not describe how the employment

¹ An Office claims examiner stated in an October 8, 1998 letter to appellant's employing establishment that appellant was not entitled to continuation of pay because she had not filed her written claim within 30 days. However, the record does not contain a final decision from the Office, addressed to appellant which specifically found that appellant was not entitled to continuation of pay. As the Office has not issued a final decision on this aspect of appellant's claim, the Board cannot consider it on appeal. 20 C.F.R. § 501.2.

injury rendered appellant totally disabled for work. In an October 8, 1998 letter, the Office instructed appellant to submit a detailed, narrative report from Dr. Ridgill which included a history of injury, findings, test results, diagnosis, period of disability and his reasoned opinion on the relationship between the diagnosed conditions and the employment injury. Appellant was given 30 days to submit the requested information and was warned that, if the information was not received within that time, her claim might be denied. The Office found that appellant did not respond within the 30 days specified by the Office.

The record submitted on appeal contains a November 4, 1998 report from Dr. Ridgill which was marked as received by the Office on November 13, 1998. Appellant, however, submitted receipts for certified mail which shows that the information requested by the Office in the October 8, 1998 letter, which she sent in duplicate, was stamped as received and signed for by the Office on November 9 and November 10, 1998. The Office, therefore, was in possession of Dr. Ridgill's November 4, 1998 report at the time it issued the November 12, 1998 decision. Since the Board's jurisdiction in a case is limited to reviewing all evidence that was before the Office at the time of its final decision,² it is necessary that the Office review all the evidence submitted by claimant and received by the Office prior to issuance of the final decision. As the Board's decisions are final as to the subject matter appealed,³ it is crucial that all evidence relevant to that subject matter which was properly submitted to the Office prior to the time of issuance of its final decision be addressed by the Office.⁴ As the Office had received Dr. Ridgill's November 4, 1998 report prior to its November 12, 1998 decision, the case must be remanded so that the Office can properly consider that report.

² 20 C.F.R. § 501.2(c).

³ 20 C.F.R. § 501.6(c).

⁴ *William A. Couch*, 41 ECAB 548 (1990).

The decision of the Office of Workers' Compensation Programs, dated November 12, 1998, is hereby set aside and the case remanded for further development as set forth in this decision.

Dated, Washington, D.C.
June 7, 2000

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member