

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAYMOND WILLIAMSON and U.S. POSTAL SERVICE,
POST OFFICE, Warren, OH

*Docket No. 98-2357; Submitted on the Record;
Issued March 29, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issues are: (1) whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation effective August 31, 1996; and (2) whether appellant met his burden of proof to establish that he had any disability after August 31, 1996 causally related to his employment injury.

On June 13, 1996 appellant, then a 45-year-old letter carrier, filed an occupational disease claim, alleging that exposure to sunlight in his employment duties caused a rash. He had stopped work on June 7, 1996.¹ The Office continued to develop the claim and on August 30, 1996 referred appellant, along with the medical record and a statement of accepted facts, to Dr. Dean W. Erickson, a Board-certified internist, for a second opinion evaluation. By letter dated September 23, 1996, the Office accepted that appellant sustained an employment-related aggravation of discoid lupus erythematosus. Finding that a conflict in the medical opinion existed between the opinions of Dr. Erickson and Dr. Indira Krishnarao, appellant's treating Board-certified dermatologist, regarding whether the aggravation of appellant's condition was temporary or permanent, on January 15, 1997 the Office referred him to Dr. P. Lakhani, a Board-certified internist, to resolve the conflict.² By letter dated September 18, 1997, the Office informed appellant that it proposed to terminate his compensation, based on the opinions of Drs. Erickson and Lakhani. Appellant submitted nothing further and, by decision dated August 25, 1997, the Office terminated his benefits, effective August 31, 1996, on the grounds that the work-related disability had ceased.

¹ The record indicates that appellant was removed from employment effective June 3, 1996 for unsatisfactory attendance. Following arbitration, he was reinstated due to mitigating circumstances.

² Appellant, along with the medical record, was initially referred to another physician who became ill and closed his office. After making several attempts to acquire the medical record, the Office reconstructed the record. When appellant was initially seen by Dr. Lakhani on February 5, 1997, the record was unavailable. However, after reconstruction of the record, by letter dated May 19, 1997, the Office referred appellant along with the medical record to Dr. Lakhani for a second examination. He was reevaluated on June 4, 1997.

Appellant, through counsel, requested a hearing and submitted additional evidence. At the hearing, held on May 4, 1978, appellant testified regarding his condition and counsel argued that his condition would recur if he was again exposed to sunlight. In a July 22, 1998 decision, an Office hearing representative affirmed the prior decision. The instant appeal follows.

The Board finds that the Office met its burden of proof to terminate appellant's compensation.

Once the Office accepts a claim it has the burden of justifying termination or modification of compensation. After it has determined that an employee has disability causally related to his or her employment, the Office may not terminate compensation without establishing that the disability has ceased or that it was no longer related to the employment.³ Furthermore, 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.⁴

The medical evidence relevant to the termination of appellant's compensation includes a June 16, 1996 attending physician's report in which appellant's treating Board-certified dermatologist, Dr. Indira Krishnarao, diagnosed discoid lupus erythematosus (DLE). Dr. Krishnarao advised that she did not believe employment caused the condition but that continued sun exposure would aggravate the condition and concluded that appellant had no physical disability and could perform any activity that did not require prolonged sun exposure. She recommended that he be transferred indoors. In a November 3, 1996 report, Dr. Krishnarao advised that if appellant could not be assigned duties that avoided sun exposure, the DLE "could be difficult to control." Dr. Erickson, a Board-certified internist who provided a second-opinion for the Office, concurred that appellant could perform regular work duties but should avoid exposure to direct sunlight. In a November 16, 1996 report, he advised that the aggravation was temporary in nature and ceased on June 6, 1996 when appellant ceased employment.

Dr. Lakhani, a Board-certified internist who acted as referee examiner, provided a February 7, 1997 report in which he stated:

"[Appellant's] aggravation appears to be permanent in nature at this time. It comes seasonally, so my recommendation would be that he can do any type of work except that he should not be exposed to the sunlight."

By letter dated May 19, 1997, the Office furnished Dr. Lakhani with appellant's medical records⁵ and asked that he determine if the aggravation was temporary or permanent and, if temporary, on what date did it cease. In a June 6, 1997 report, Dr. Lakhani stated that appellant's condition was precipitated by exposure to the sun at work but was in remission at the

³ See *Patricia A. Keller*, 45 ECAB 278 (1993).

⁴ See *Kathryn Haggerty*, 45 ECAB 383 (1994); *Edward E. Wright*, 43 ECAB 702 (1992).

⁵ *Supra* note 2.

time of his examination. He advised that appellant was temporarily disabled until between July and August 1996 when the lesions went into remission and concluded that he was not permanently disabled but should avoid exposure to sunlight.

Under the Federal Employees' Compensation Act,⁶ when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation. However, when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.⁷ Compensation is not payable for periods after an employment-related aggravation of a preexisting condition has ceased even though the employee is found medically disqualified to continue in such employment because of the effect which the employment factors might have on the underlying condition. Under such circumstances, disqualification for continued employment is due to the underlying condition, without any contribution by the employment.⁸ In this case, the Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized opinion of Dr. Lakhani, the referee examiner, who advised appellant's temporary aggravation had ceased in August 1996. The Office, therefore, properly terminated appellant's compensation effective August 31, 1996.

The Board further finds that appellant failed to establish that he had an employment-related disability after August 31, 1996.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to him to establish that he had disability causally related to his accepted injury.⁹ To establish a causal relationship between the condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.¹⁰ Causal relationship is a medical issue,¹¹ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹²

⁶ 5 U.S.C. §§ 8101-8193.

⁷ *Gary R. Sieber*, 46 ECAB 215 (1994).

⁸ *John Watkins*, 47 ECAB 597 (1996).

⁹ *See George Servetas*, 43 ECAB 424 (1992).

¹⁰ *See* 20 C.F.R. § 10.110(a); *Kathryn Haggerty*, *supra* note 4.

¹¹ *Mary J. Briggs*, 37 ECAB 578 (1986).

¹² *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

The medical evidence submitted subsequent to the August 25, 1997 decision terminating appellant's compensation includes an August 11, 1997 report from Dr. Krishnarao in which she essentially reiterated her previous findings and conclusions. Dr. Mark Berbaum, a Board-certified dermatologist, provided a fitness-for-duty examination for the employing establishment and, in a December 23, 1997 report, advised that appellant could work at night. In an April 16, 1998 report, Dr. William D. Carey, a Board-certified internist, diagnosed DLE and hepatitis C.

In this case, after the Office properly terminated appellant's compensation benefits, while he submitted additional medical evidence, Dr. Krishnarao merely reiterated her previous findings and conclusions. Drs. Berbaum and Carey did not address the relationship of appellant's condition to employment factors. As the record contains no evidence that appellant continued to be disabled after August 31, 1996, the Office properly determined that he was not entitled to compensation benefits after that date.

The decisions of the Office of Workers' Compensation Programs dated July 22, 1998 and August 25, 1997 are hereby affirmed.

Dated, Washington, D.C.
March 29, 2000

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member