

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY M. BLACKBURN and U.S. POSTAL SERVICE,
MAXIE POST OFFICE, Maxie, VA

*Docket No. 98-2430; Submitted on the Record;
Issued March 17, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she had a recurrence of disability causally related to her August 4, 1994 employment injury.

On August 4, 1994 appellant, then a 57-year-old postmaster, unlatched a heavy mail pouch and slid the mail in the pouch into a hamper when she developed pain in the right shoulder blade. The Office of Workers' Compensation Programs accepted appellant's claim for acute right scapular and cervical strain. On April 9, 1996 appellant filed a claim for recurrence of disability, indicating that she had stopped working on April 3, 1996. In a November 18, 1996 decision, the Office denied appellant's claim on the grounds that the evidence of record failed to demonstrate a causal relationship between appellant's employment injury and her claimed recurrence of total disability. In a December 16, 1998 letter, appellant, through her attorney, requested a hearing before an Office hearing representative which was held on November 19, 1997. In a January 20, 1998 decision, the Office hearing representative found that appellant had submitted sufficient medical evidence to require further development of the record. He therefore set aside the Office's November 18, 1996 decision and remanded the case for referral of appellant to a physician for an examination and second opinion. In a July 8, 1998 decision, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that the claimed recurrence was causally related to the August 4, 1994 employment injury.

The Board finds that the evidence of record does not establish that appellant sustained a recurrence of disability causally related to her August 4, 1994 employment injury.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition for which she seeks compensation was causally

related to her employment injury. As part of such burden of proof, rationalized medical evidence showing causal relationship must be submitted.¹

In an August 4, 1994 report, Dr. Joshua Sutherland, an osteopath, diagnosed acute scapular sprain/strain, sprain/strain of the cervical and thoracic spine, and right scapular tendinitis secondary to sprain/strain. In a June 5, 1996 report, Dr. Steve Morgan, a Board-certified family practitioner, diagnosed right carpal tunnel syndrome and musculoskeletal pain in the right shoulder and left arm. In a January 16, 1997 report, Dr. Sutherland stated that appellant had severe cervical strain/sprain, right cervical thoracic outlet syndrome associated with weakness in the right deltoid muscle and right hand, right scapular tendinitis and severe personality dysfunction associated with chronic pain. He indicated that appellant could not do light work associated with lifting even five pounds. He noted that she had problems associated with the right hand, right arm and the right side of her neck in flexion and extension. Dr. Sutherland stated that appellant was unable to do any type of activities associated with lifting, bending or stooping. He noted that she was unable to perform any sitting activities involving pushing, pulling, shoving and rotation of the neck. He commented that he was unaware of any rehabilitation program that would return appellant to gainful employment.

In an April 14, 1998 report, Dr. Albert F. Heck, a Board-certified neurologist, related the history of appellant's employment injury. He indicated that appellant gave a history of neck pain beginning just before she stopped work on April 3, 1996 when she pulled a book off a shelf, striking her right hand and jerking her right shoulder. Dr. Heck noted that neurological examination showed appellant's cranial nerves to be intact. He related that appellant reported decreased pin and touch sensation in the right side of her face. However, he also indicated that appellant reported decreased vibratory sensibility by tuning fork in the right side of her forehead when compared to the left, which was a physiological impossibility. Dr. Heck commented that appellant's motor system examination showed good strength and normal tone. The sensory examination showed primary and cortical modalities to be intact except for the report of a little difference in the sensation in the right limbs. Coordination tests were well performed. Dr. Heck summarized that appellant's neurological examination was within normal limits. He concluded that the sensory changes on the right side of the face and the limbs were not occurring on a neurological basis. He commented that appellant's current symptoms might be the result of a chronic cervical strain, related by history to the August 4, 1994 employment injury. Dr. Heck stated that he did not find any evidence of severe impairments on a neurological basis, carpal tunnel syndrome or cervical disc disease. He concluded that appellant might experience difficulties with work involving her neck or shoulder girdle but could perform other types of work not involving activity of this sort.

The Office asked Dr. Heck to clarify whether appellant's current condition was due to the August 4, 1994 employment injury or the April 3, 1996 incident reported by appellant which did not occur in the workplace. In a May 29, 1998 response, Dr. Heck stated, "In response to your questions concerning the relationship of [appellant's] subsequent injury on April 3, 1996 and its potential effect on her current situation, it is my opinion that the subjective symptoms of which she complains are compatible to the subsequent injury occurring on April 3, 1996."

¹ *Dominic M. DeScala*, 37 ECAB 369 (1986).

Dr. Sutherland, in his January 16, 1997 report, indicated that appellant was severely limited in her ability to work. He stated that she had cervical strain and thoracic outlet syndrome. However, he did not provide any reasoned explanation on whether, or how, appellant's disability, as shown in his examination, was causally related to the original August 4, 1994 employment injury. His report therefore is insufficient to show a causal relationship between appellant's employment injury and her disability after April 3, 1996. Dr. Heck indicated that appellant had no organic neurological condition that would explain her subjective complaints relating to her right arm, right leg or the right side of her face. He related appellant's cervical symptoms and other complaints to an incident in which she was pulling a book from a shelf, not the August 4, 1994 employment injury. The evidence of record, therefore, does not contain any rationalized medical evidence to support appellant's claim that her disability after April 3, 1996 was causally related to the August 4, 1994 employment injury.

The decision of the Office of Workers' Compensation Programs, dated July 8, 1998, is hereby affirmed.

Dated, Washington, D.C.
March 17, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member