

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA BROWN and U.S. POSTAL SERVICE,
MAIN POST OFFICE, Columbus, OH

*Docket No. 99-404; Submitted on the Record;
Issued October 6, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that she had any disability after October 5, 1992 causally related to her November 16, 1977 employment injury or to factors of her employment.

The case has been on appeal previously.¹ In a January 15, 1997 decision, the Board noted that on November 16, 1977 appellant developed back pain while lifting. The Office of Workers' Compensation Programs accepted her claim for lumbosacral strain and chronic fibromyalgia of the lumbar and cervical regions of the spine. Appellant subsequently filed a claim for a recurrence of disability on October 5, 1992. The Board found that appellant had not met her burden of proof in establishing that her recurrence of disability was causally related to her employment injury or to any change in her physical condition or the duties of her employment.²

On April 4, 1996 appellant filed a claim for an occupational injury. On February 17, 1997 appellant filed a claim for continuing compensation for the period beginning October 2, 1992. In a March 28, 1997 letter, the Office noted that appellant had separate claims for her bilateral shoulder and for her neck and back conditions. The Office indicated that if appellant believed that she was totally disabled due to her shoulder condition, she needed to submit additional medical evidence in support of her claim. The Office instructed appellant to file a separate claim for compensation if she believed she was totally disabled due to her back condition.

¹ Docket No. 95-1231 (issued January 15, 1997). The history of the case is contained in the prior decision and is incorporated by reference.

² While appellant's case was pending on appeal, the Office, in a June 13, 1996 decision, issued a schedule award for a 16 percent permanent impairment of the right arm and a 1 percent permanent impairment of the left arm due to employment-related injuries to appellant's shoulders.

In a March 3, 1998 decision, the Office denied appellant's claim on the grounds that evidence of record failed to demonstrate that appellant's claimed disability was causally related to an injury arising from exposure to employment factors on or prior to April 15, 1993, when she filed her claim for the bilateral shoulder condition. Appellant requested a hearing before an Office hearing representative, which was conducted on July 9, 1998. In an October 1, 1998 decision, the Office hearing representative found that appellant had failed to establish that she was disabled for her job after October 2, 1992 due to her accepted back and shoulder conditions. He therefore affirmed the Office's March 3, 1998 decision.

The Board finds that appellant has not established that her disability after October 5, 1992 is causally related to her November 16, 1977 employment injury or to factors of her employment.

In a February 26, 1996 report, Dr. Boyd W. Bowden, an osteopath, described the range of motion restrictions which were subsequently used to determine the extent of appellant's permanent impairment for schedule award purposes. In that report, Dr. Bowden stated that appellant could not return to full duty as a postal clerk without restrictions but could work at desktop level, using fine motor skills of the hands, not reaching over her head more than three to four times an hour, and using the left arm more than the right arm. Dr. Bowden therefore indicated that appellant was not totally disabled but was capable of performing work at the employing establishment with some restrictions.

Appellant submitted several emergency room reports which showed that she was treated for fibromyalgia or for acute exacerbations of chronic back pain. None of these reports, however, discussed whether she was disabled for work due to employment-related conditions.

Bilateral shoulder arthrograms, taken on October 17, 1996, showed that rotator cuff repairs to both shoulders were intact. A magnetic resonance imaging (MRI) scan of the cervical spine showed a disc bulge and spur at C5-6 with mild encroachment on the proximal left neural foramen and mild effacement of the thecal sac. An MRI scan of the lumbar spine showed disc bulges from T12-L1 through L4-5 without spinal stenosis and right foraminal disc protrusion at L3-4 with a possible compression of the right L3 nerve root.

Dr. J. Geoffrey Wiot, a Board-certified radiologist who reviewed the MRI scans, did not discuss the cause of the disc bulges and other findings on the scans, did not give an opinion on whether the findings were causally related to appellant's employment injury or other employment-related conditions, and did not state whether appellant was totally disabled for work.

In a set of office notes from October 14, 1997 to April 13, 1998, Dr. Ralph G. Rohner, a Board-certified orthopedic surgeon, reported that appellant continued to have back pain and shoulder pain. He diagnosed bilateral capsulitis of the shoulders, spinal stenosis and mild L4-5 disc protrusion, degenerative disc disease and fibromyalgia. However, he did not give any opinion in these notes on whether appellant was totally disabled due to the effects of her accepted employment-related conditions.

In a March 4, 1997 form report, Dr. Rohner indicated by checkmark that appellant was totally disabled due to employment-related conditions. However, the Board has held that such a report has little probative value where there is no explanation or rationale supporting the opinion on causal relationship between the diagnosed condition and the employment-related injury.³ Appellant therefore has not submitted any medical evidence that establishes that she had any total disability after October 5, 1992 due to the effects of her accepted employment-related conditions.

The decisions of the Office of Workers' Compensation Programs dated October 1 and March 3, 1998 are hereby affirmed.

Dated, Washington, DC
October 6, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member

³ See *Lillian M. Jones*, 34 ECAB 379, 381 (1982).