

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MONA LANCASTER and U.S. POSTAL SERVICE,  
POST OFFICE, Vallejo, CA

*Docket No. 00-444; Submitted on the Record;  
Issued April 17, 2001*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation effective June 20, 1998.

On March 25, 1974 appellant, then a 41-year-old letter carrier, slipped while going down steps and fell, landing on her buttocks. She worked light duty from April 27 through May 4, 1974, used annual leave from May 5 through 25, 1974 and then returned to full duty. The Office accepted appellant's claim for contusions to the lumbar spine and a herniated nucleus pulposus (HNP) at L4-5. The Office began payment of temporary total disability effective December 12, 1974.

Appellant underwent a lumbar laminectomy on March 4, 1975 and a second lumbar laminectomy on March 15, 1978. The Office subsequently accepted that appellant had a herniated L5-S1 HNP as a result of the back operations.

In a May 29, 1998 decision, the Office terminated appellant's compensation effective June 20, 1998 on the grounds that the medical evidence established that her employment-related disability had ceased. In a June 5, 1998 letter, appellant requested a hearing before an Office hearing representative which was subsequently changed to request for a written review of the record. In a June 25, 1999 decision, an Office hearing representative affirmed the Office's May 29, 1998 decision.

The Board finds that the Office improperly terminated appellant's compensation.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits. After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation

without establishing that the disability has ceased or that it is no longer related to the employment.<sup>1</sup>

In a January 17, 1997 letter, the Office asked appellant to submit a current medical report. In a February 27, 1997 report, Dr. Michael E. Karasek, a Board-certified neurologist, noted appellant's history of back surgeries. He related that, since the employment injury and the back operations, appellant had back pain with left leg pain radiating into the lateral left calf. Dr. Karasek reported that the motor examination showed full tone, bulk and power in the legs and arm and that the sensory examination was unremarkable. Dr. Karasek commented that there was "very little to indicate a disabling back injury at this time," but added that appellant could have chronic neuropathic pain on the left.

In an April 8, 1997 cover letter, Dr. Karasek stated that appellant reported disabling low back pain for a number of years, but "had very little objective findings to support a disabling low back condition." Dr. Karasek related that appellant had declined a magnetic resonance imaging (MRI) scan because she did not want an MRI scan until her disability status was confirmed. Dr. Karasek stated that he could not "support or discourage" appellant's continuing disability because she had not had an adequate work-up. He recommended an MRI scan before a decision was made regarding appellant's ongoing disability.

In an April 24, 1997 report, Dr. Steven K. Goodwin, a neurosurgeon, indicated that motor strength testing showed normal tone without atrophy. He reported sensation was intact to light touch throughout. Dr. Goodwin diagnosed chronic neck and left leg pain. He commented that appellant's range of motion and neurologic examination were normal. He noted that her pain was something he could not measure. Dr. Goodwin assumed that appellant could not perform a physical job if she had not worked in 23 years. He indicated that it seemed appellant could sit and stand to perform the duties of a sedentary job. Dr. Goodwin recommended that appellant be referred for a physical capacity examination. He commented that he was not a disability doctor and suggested that appellant might benefit by seeing such a physician.

In an October 16, 1997 letter, the Office asked Dr. Goodwin whether appellant, at the time of the examination, had any objective evidence related to the employment injury that would disable her from performing her duties as a letter carrier. In an October 22, 1997 response, Dr. Goodwin stated that there was no objective evidence that appellant had any disability related to a work injury. He indicated that her only symptom was pain, which he could not measure. Dr. Goodwin commented that, based on appellant's history, he did not think appellant could perform the duties of a letter carrier from a pain standpoint. He stated that, if pain were allowed as a limiting factor, appellant would not be able to do that job, but her range of motion and neurologic examination were normal.

The Office based its decision to terminate appellant's compensation on the reports of Dr. Goodwin. However, Dr. Goodwin, in his initial report, indicated that appellant might be able to perform a sedentary job but recommended a more complete examination by a physician better qualified to perform such an examination. In his October 22, 1997 report, Dr. Goodwin stated that appellant had no objective evidence to show disability related to an employment injury. He

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<sup>1</sup> *Jason C. Armstrong*, 40 ECAB 907 (1989).

commented, however, that appellant could not perform the duties of her former position due to pain. Dr. Goodwin's reports, therefore, were equivocal on the issue of whether appellant could return to her former position as a letter carrier. As a result, Dr. Goodwin's reports did not have sufficient probative value to establish that appellant's disability, due to the employment injury, had ceased.

The decision of the Office of Workers' Compensation Programs dated June 25, 1999 is hereby reversed.

Dated, Washington, DC  
April 17, 2001

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member