

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD L. SANGSTER and U.S. POSTAL SERVICE,
POST OFFICE, Brooklyn, NY

*Docket No. 01-1089; Submitted on the Record;
Issued December 21, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issues are: (1) whether appellant's ulnar nerve condition is causally related to his January 3, 1997 employment injury; and (2) whether the Office of Workers' Compensation Programs properly terminated compensation for wage loss effective July 16, 1997.

On March 22, 1997 appellant, then a 61-year-old custodian, filed a traumatic injury claim asserting that his left elbow epicondylitis was a result of pushing, pulling and lifting while performing his federal duties on January 3, 1997. He stopped work on January 3, 1997 and returned to duty on July 16, 1997 with a lifting restriction of 10 pounds.

Form reports from Dr. Satish Kashyap, the attending orthopedist, supported that appellant's employment caused or aggravated his diagnosed left elbow epicondylitis. The Office requested that Dr. Kashyap submit a comprehensive medical report providing, among other things, his reasoned opinion as to how the reported work incident caused or aggravated the claimed injury.

In a report dated August 22, 1997, Dr. Kashyap reviewed his previous examination of appellant, including the history presented, findings and treatment. Appellant had revealed that he had a preexisting osteoarthritis of the left elbow and had injured his low back in a nonemployment-related motor vehicle accident in May 1997. He noted that appellant was released to return to limited duty as of July 16, 1997, but was unable to return to work due to the low back injury sustained in the motor vehicle accident in May 1997. On his most recent examination, on August 22, 1997, Dr. Kashyap reported that appellant's left elbow pain was on and off; his main complaints were of the low back, which he stated were related to the motor

vehicle accident of May 1997. Appellant had tenderness of the lumbosacral spine and the left elbow “which is minimal.” Range of motion of the left elbow was nearly full. Dr. Kashyap diagnosed job-related epicondylitis of the left elbow, “which appears chronic,” and a back injury that was motor vehicle related. He reported:

“In my opinion, patient’s left elbow injury is directly related to the accident sustained in January 3, 1997, which is job related. Further improvement of this condition is guarded. He appears to have chronic epicondylitis for which he can return to work under conditions which will allow him to lift nothing beyond 10 pounds, therefore, some limitations of work will be required.”

On October 1, 1999 Dr. Leonard Langman, a neurologist, related appellant’s history of injury and complaints and Dr. Kashyap’s diagnosis. After describing his findings on neurological examination, Dr. Langman diagnosed ulnar nerve injury as a result of epicondylitis of the left elbow. He opined:

“It is my opinion with a reasonable degree of medical certainty that the injury of January 3, 1997 has resulted in chronic epicondylitis of the left elbow with resulting ulnar nerve injury, left.

“[Appellant] is totally disabled as a result from January 3, 1997 to date, as a result of the ulnar nerve injury. This is directly the result of lifting trash bags of 20 to 40 pounds over the course of his employment.

“If the patient were to continue working, it would, in my opinion, with a reasonable degree of medical certainty, exacerbate his condition and bring on reflex sympathetic dystrophy.”

In a decision dated December 13, 2000, the Office accepted appellant’s claim for lateral epicondylitis, of the left elbow. The Office based its acceptance on the August 22, 1997 report of Dr. Kashyap. The Office noted that he further considered appellant’s preexisting osteoarthritis and the May 1997 motor vehicle accident. On the issue of disability for work, the Office found that Dr. Kashyap’s report was sufficient to establish that total disability ceased as of July 16, 1997, but that appellant did not return to work due to the residuals of the nonemployment-related motor vehicle accident. The Office did not accept the ulnar nerve injury diagnosed by Dr. Langman.

The Board finds that the medical opinion evidence is insufficient to establish that appellant’s ulnar nerve condition is causally related to his January 3, 1997 employment injury.

A claimant seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,² including that he sustained an injury in the performance of duty and that any specific condition

¹ 5 U.S.C. §§ 8101-8193.

² *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

or disability for work for which he claims compensation is causally related to that employment injury.³

The Office accepted that appellant sustained a left elbow lateral epicondylitis, injury in the performance of duty on January 3, 1997. However, it remains for appellant to establish that his diagnosed ulnar nerve condition is causally related to that employment injury.

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.⁴

While Dr. Langman's October 1, 1999 report is generally supportive of appellant's claim, he neglected to explain, from a pathophysiological point of view, how appellant's left elbow epicondylitis condition caused an injury to the ulnar nerve. His report gives no description of how this occurred. The Board has held that medical conclusions unsupported by rationale are of little probative value.⁵ Dr. Langman's opinion is also of diminished probative value because he failed to address appellant's preexisting left elbow osteoarthritis and his May 1997 motor vehicle accident. Medical conclusions based on inaccurate or incomplete histories are of little probative value.⁶

As the medical opinion evidence is insufficient to establish causal relationship, appellant has not met his burden of proof. The Board will affirm the Office's December 13, 2000 decision on the issue of ulnar nerve injury.

The Board also finds that the Office met its burden of proof to terminate compensation for wage loss effective July 16, 1997.

Once the Office accepts a claim it has the burden of justifying modification or termination of compensation. After it has determined that an employee has disability causally related to his employment, the Office may not terminate compensation without establishing that the disability has ceased or is no longer related to the employment injury.⁷ The fact that the Office accepted an employee's claim for a specified period of disability does not shift the burden

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

⁵ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

⁶ See *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

⁷ *Edwin Lester*, 34 ECAB 1807 (1983).

of proof to the employee. The burden is on the Office with respect to the period subsequent to the date of termination or modification.⁸

In his August 22, 1997 report, Dr. Kashyap explained that he released appellant to return to limited duty as of July 16, 1997, but that appellant was unable to return to work due to a low back injury he sustained in a nonemployment-related motor vehicle accident in May 1997. This evidence supports that disability related to the accepted lateral epicondylitis ceased as of July 16, 1997 and that appellant's inability to return to work thereafter was a result of the unrelated low back injury sustained in May 1997.

Dr. Langman reported on October 1, 1999 that appellant continued to be totally disabled as a result of his ulnar nerve injury, but because the ulnar nerve injury has not been established as work related, Dr. Langman's report fails to support that disability for work after July 16, 1997 is a result of the January 3, 1997 employment injury.

As the weight of the medical evidence establishes that disability causally related to the January 3, 1997 employment injury ceased as of July 16, 1997, the Office has met its burden of proof to terminate compensation for wage loss. The Board will affirm the Office's December 13, 2000 decision on the issue of disability.

The December 13, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 21, 2001

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁸ See *Raymond M. Shulden*, 31 ECAB 297 (1979); *Anna M. Blaine (Gilbert H. Blaine)*, 26 ECAB 351 (1975).