

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DELORES M. WILLIAMS and U.S. POSTAL SERVICE,
POST OFFICE, City of Industry, CA

*Docket No. 00-962; Submitted on the Record;
Issued February 20, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant's diagnosed condition of right inguinal tendinitis or any other physical condition is causally related to factors of her federal employment.

On April 1, 1996 appellant, then a 32-year-old mail carrier, filed an occupational claim alleging that on January 22, 1996 she became aware that she had femoral nerve neuritis in the inguinal canal region. In an accompanying statement, appellant stated that she started having pain in her leg on June 7 or 8, 1995 and that she started having pain in her groin area when she was recovering from the first surgery. Appellant stated that when she returned to work she had sutures in two areas of her stomach and by being required to use a pushcart, which weighed 28 pounds when empty and carried a satchel which weighed more than 30 pounds when full, her work aggravated her health. She stated that she pushed a cart and carried a satchel 40 hours a week and performed different routes for several months, with one route requiring mostly lifting for a week, until her second surgery on September 15, 1995. Appellant stated that the part of her body affected was the inguinal nerve in her right leg and that she felt pain from the inguinal nerve located in the groin area down her leg about to the mid-thigh. On September 19, 1995 appellant underwent a laparoscopy, right fibriectomy, lysis of pelvic adhesions and cauterization of endometriosis.

By decision dated June 25, 1996, the Office of Workers' Compensation Programs denied the claim, stating that the evidence of record failed to establish a causal relationship between appellant's right inguinal tendinitis and factors of her federal employment. The Office subsequently denied appellant's requests for modification on January 28 and September 17, 1997, December 14, 1998 and December 17, 1999.

In his report dated February 29, 1996, Dr. Allan B. Barton, a family practitioner, stated that appellant saw him for an opinion on her right leg and that appellant developed symptoms when she was pushing a very heavy cart, which exceeded the work restrictions placed on her after the first laparoscopy. He diagnosed inguinal tendinitis.

In a report dated May 20, 1996, Dr. Michael E. Ramirez, a Board-certified family practitioner, stated that appellant's medical difficulties dated to April 24, 1995 when she underwent laparoscopy for right ectopic pregnancy and that she returned to work with restrictions. He noted that on February 29, 1996 appellant was seen by Dr. Barton for symptoms she developed from pushing a very heavy cart after the first laparoscopic surgery between April and June 1995. Dr. Ramirez diagnosed mild chronic inguinal tendinitis and ligament inflammation of the right groin. He stated that the etiology of the condition was unclear. Dr. Ramirez stated that "[t]here does not seem to be any work-related irritants in that all normal activities aggravate this."

In a report dated November 25, 1996, Dr. Ramirez tried to clarify the statement in his May 20, 1996 report, that "all normal activities aggravate this." He stated that "all activities either at home and, therefore, at work which would include the patient in an upright standing position would aggravate that musculoskeletal condition." Dr. Ramirez stated that the statement in his May 20, 1996 report "was only intended to describe an effect of that musculoskeletal condition and not to apply cause." He also stated that his reference to appellant's pushing a cart at work was "to describe an effect and not to rule out or include any activity as a cause."

In his March 6, 1997 report, Dr. Ramirez stated that his description of appellant pushing a cart at work led "to the description of discomfort described on those examinations [in his November 25, 1996 report]." He stated that "[t]he cause, from the history, is the application of force to a cart in a [manner] that would move the cart" and the evidence "in the notes supports the fact that the cause was activity at your place of employment and that cause was the movement of the cart."

In a report dated April 2, 1998, Dr. William A. Mathews, a Board-certified anesthesiologist, stated that appellant dated the onset of her symptoms of pain in her right groin and inner thigh area to sometime between April and June 1995 while pushing carts heavily laden with mail in her job as a mail carrier. He noted that when she returned to work following her laparoscopy, despite work restrictions she worked full duty, which aggravated her pain. He stated:

"Whether or not [appellant] had an initial injury to the nerve posteriorly along the iliopsoas area during the laparoscopy I do not know. There does seem to be in my mind a causal relationship between pushing the carts some three or four weeks after the laparoscopy. Whether or not the laparoscopy is connected with the injury I do not know."

He further stated that "[t]here is no doubt in my mind that twisting, stooping, bending and lifting probably did initially cause an injury to this area [*i.e.*, inguinal canal], possibly resulting in nerve entrapment" and that he and Dr. David A. Gehret, Board-certified psychiatrist and neurologist, had objective findings. Dr. Mathews concluded that appellant had an injury to the ilioinguinal nerve as a result of her work and that appellant was totally disabled.

Appellant submitted many reports from her treating physician, Dr. Joseph T. Broderick, a Board-certified internist with a specialty in gastroenterology. In his August 28, 1998 report, Dr. Broderick noted that in April 1995 appellant underwent an ectopic pregnancy, two

laparoscopies, was released to work in May 1995 with restrictions and experienced ongoing pain in the right groin area. He stated that the diagnosis of Dr. Gehret, a Board-certified psychiatrist and neurologist, "is the proper course." The only report in the record from Dr. Gehret is a somewhat incomplete xerox copy dated sometime in the fall in 1997 in which he made a tentative clinical diagnosis of ilioinguinal neuralgia although he stated he had no objective evidence to prove or disprove the diagnosis. Dr. Gehret also stated that he could not determine if appellant's pain was related to her job.

Dr. Broderick stated that "the history indicate[d] an ectopic pregnancy which was resolved appropriately and an industrial injury of new onset or the result of an employee returned to work beyond her work restrictions, as a source of the etiology of the pain in the right groin area." He stated "there appears to be quite a bit of evidence in favor of an industrial injury" which "may have been incidental to the ectopic pregnancy or a result of not adhering to work restrictions." Dr. Broderick also stated that due to appellant's "work-related duties she has suffered a work-related injury and that her duties to the employer in terms of physical qualifications are not conducive to healing...." He stated that appellant "has in fact suffered a work-related injury to the right groin. There is in fact a very proximate cause of injury. Work-related duties."

In his report dated September 28, 1998, Dr. Broderick diagnosed right psoas tendinitis, secondary to chronic industrial trauma, right ileal inguinal nerve neuropathy, probably secondary to his first diagnosis and nonindustrial postoperative status pelvic laparoscopy.

In a report dated July 15, 1997, the second opinion physician, Dr. Frank R. Di Fiore, a Board-certified surgeon, considered that appellant's health problem dated back to April 1995 when she had the removal of her right fallopian tube via laparoscopy for an ectopic pregnancy. He stated that appellant had some pelvic pain and had lifting restrictions when she returned to work but was compelled to exceed them while performing her work activities of lifting mail sacks and pushing carts and developed right groin pain. Dr. Di Fiore performed a computerized axial tomography (CAT) scan of her pelvis on July 14, 1997, which showed no hernial disruption of the muscle layers in the groin area. He found no objective findings of pain and stated that he could not ascribe her condition to a work-related injury but also stated that he could not rule out a work-related injury. Dr. Di Fiore stated that he did not have a diagnosis but it was possible appellant sustained a groin strain which "possibly" could be related to her work. He stated, however, that the cart appellant pushed would not "seem offhand, to be sufficiently vigorous to produce it" but it was possible there was some "work relevancy." Dr. Di Fiore stated that two years was "a very long time for a groin strain to persist" but stated it would be "very hard" for him to relate her groin strain to her laparoscopies, which "should not have, in any way, involved the area where the ilioinguinal nerve would be found." He qualified that statement, however, stating that he could not be "absolutely certain of this" because he was not present at the surgery.

In his September 4, 1997 report, in response to the Office's request for clarification, Dr. Di Fiore stated that there were no objective findings and that he was unable to identify a nonindustrial or preexisting disability. He diagnosed status post laparoscopy "secondary to ectopic pregnancy and second laparoscopy secondary to rule out adhesions, by history, not medically connected to the factors of employment." Dr. Di Fiore stated that total disability was

not an issue because there was no clear-cut evidence of a specific work-related injury and no objective findings to support it.

In her December 9, 1999 request for reconsideration, appellant submitted a report from Dr. Broderick dated July 26, 1999, a medical note from Dr. Anne M. Kent, a Board-certified obstetrician and gynecologist, dated March 26, 1999 and progress notes from the Fountain Valley Hospital dated from April 29, 1994 to April 23, 1995. In his July 26, 1999 report, Dr. Broderick stated that appellant showed gradual status improvement and was responding well to Wygesic, an analgesic, which she took with other medication but the medication controls her symptoms and does not cure them. He diagnosed right ileopsoas tendinitis and released appellant to work with lifting and carrying restrictions on a trial basis. In her March 26, 1999 note, Dr. Kent stated that she treated appellant for her most recent pregnancy from January 16 through October 14, 1998. The Fountain Valley Hospital notes dated from April 29, 1994 to April 23, 1995 documents that appellant was treated for a ruptured right ectopic pregnancy in April 1995.

By decision dated December 17, 1999, the Office denied appellant's request for modification.

The Board finds that the case is not in posture for decision.

To establish that an injury was sustained in the performance of duty, appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant. The medical evidence required to establish causal relationship, generally is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between appellant'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 appellant.¹

In the present case, the Board finds that a conflict exists between the opinion of appellant's treating physician, Dr. Broderick, that appellant's current condition is causally related to her activities at work and the opinion of the referral physician, Dr. Di Fiore, that appellant had no work-related disability. Section 8123(a) of the Federal Employees' Compensation Act² provides that, "[i]f there is disagreement between the physician making the examination of the

¹ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² 5 U.S.C. § 8123(a).

United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.”

The case, therefore, requires remand for an impartial medical specialist to resolve the conflict in the medical opinions. On remand, the Office should refer appellant with a statement of accepted facts and the case record to an appropriate physician to reevaluate the evidence pursuant to section 8123(a) of the Act. Following this and such further development as the Office deems necessary, it shall issue a *de novo* decision.

The decision of the Office of Workers’ Compensation Programs dated December 17, 1999 is set aside and the case remanded for further development consistent with this opinion.

Dated, Washington, DC
February 20, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member