

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BELLE S. RYAN and DEPARTMENT OF THE AIR FORCE,
HICKAM AIR FORCE BASE, HI

*Docket No. 00-1073; Submitted on the Record;
Issued February 5, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issues are: (1) whether appellant has established that he sustained a back injury or emotional condition causally related to an October 23, 1986 employment injury; and (2) whether the Office of Workers' Compensation Programs met its burden of proof in determining that residuals of the October 23, 1986 injury had ceased by December 15, 1986.

The Office accepted that appellant sustained a left ankle sprain in the performance of duty on October 23, 1986.¹ The record indicates that appellant returned to a light-duty position at five hours per day on December 1, 1986. By decision dated November 3, 1997, the Office determined that appellant had not established a back injury or emotional condition as causally related to the October 23, 1986 employment injury. The Office also found that residuals of the employment injury had ceased by December 15, 1986. Following a review of the written record, an Office hearing representative affirmed the November 3, 1997 decision by decision dated July 29, 1999.

The Board has reviewed the record and finds that appellant has not established a back injury or emotional condition as causally related to the October 23, 1986 employment injury.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim, including the fact that any disability or condition for which compensation is claimed is causally related to the employment injury.³

¹ Appellant also has a separate claim for injuries on August 18, 1988. By decision dated December 12, 1994, Docket No. 94-2206, the Board found that appellant's April 12, 1994 request for a hearing was made pursuant to the 1988 claim, not the October 1986 claim.

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

With respect to a back injury, an attending physician, Dr. Emerson Jou, a specialist in physical medicine, reported that appellant had chronic pain in the left low back and pelvis secondary to an unresolved muscle strain. In a report dated April 11, 1988, Dr. Jou stated that appellant “suffered chronic low back pain due to limping and muscle imbalance as a result of left ankle pain.” To the extent that Dr. Jou is attempting to relate a low back condition to the October 23, 1986 ankle injury, he failed to provide a clear diagnosis of the back condition, nor a reasoned medical explanation of how the diagnosed back condition developed due to the left ankle injury on October 23, 1986. The Board finds that the record does not contain a reasoned medical opinion on causal relationship between a diagnosed back condition and the accepted employment injury.

Appellant has also claimed an emotional condition resulting from the employment injury. To the extent that appellant is implicating the handling of her compensation claim or other factors, this would appropriately be raised in an occupational disease claim for an emotional condition. The issue in this case is whether the evidence is sufficient to establish an emotional condition as a consequence of the accepted employment injury and on this issue the medical evidence is of little probative value. The record contains reports from Dr. Joseph P. Rogers, a psychologist, discussing appellant’s treatment. Dr. Rogers noted in an August 8, 1988 report a “vicious cycle of stress/anxiety which produces increased muscle tension and pain levels.” He refers to a previous source of stress as discord with a supervisor, which is not relevant to the present issue. Dr. Rogers failed to provide a reasoned opinion between a diagnosed emotional condition and the employment injury. The Board finds that appellant has not met her burden of proof in this case.

The Board further finds that the Office did not meet its burden of proof in establishing that residuals of the accepted left ankle sprain had ceased by December 15, 1986.

The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability. To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁴

The November 3, 1997 Office decision finds that the medical evidence established that appellant has no further disability after December 15, 1986 and “she is in need of no further medical care as she has no further residuals ... [appellant’s] injury-related residuals ceased no later than December 15, 1986.” The Board notes that disability for work and entitlement to medical care are separate issues. With respect to disability for work, appellant did return to work on December 1, 1986 and eventually returned to her full-time regular duties. In a letter dated December 21, 1987, for example the Office advised appellant that wage-loss compensation was authorized for intermittent hours claimed and further claims should be made through the filing of a CA-8 claim form. The Office paid compensation for wage loss and after her return to full-time

⁴ *Furman G. Peake*, 41 ECAB 361 (1990).

work it would be appellant's burden of proof to establish any period of disability.⁵ Therefore, the November 3, 1997 decision is not a termination of compensation for wage loss, but it clearly does find that appellant would not be entitled to medical benefits after December 15, 1986.

In a form report (Form CA-16) dated December 30, 1986, Dr. Lawrence Lau, Jr., indicated that appellant was able to resume regular work on December 15, 1986. Dr. Lau notes in the report that appellant had many difficulties with the sprained ankle; a January 3, 1987 report states that appellant was apparently back at work, though still with a slight limp. Another form report (Form CA-20) dated March 9, 1987 continues to diagnose an ankle sprain. He did not specifically opine in any of these reports that all residuals of the ankle injury had ceased by December 15, 1986, and his reports do not support such a finding. The Office referred to the report of Dr. Mark Luppino, an employing establishment physician, reporting no objective evidence of ankle problems at that time. This report is dated June 23, 1988 and, therefore, does not support a finding that residuals had ceased by December 15, 1986. Based on this evidence, the Board finds that appellant's left ankle sprain resolved as of June 23, 1988 based on the findings of Dr. Luppino.

The Board finds the medical evidence establishes that residuals of the October 23, 1986 left ankle sprain ceased by June 23, 1988.

The decision of the Office of Workers' Compensation Programs dated July 29, 1999 is affirmed with respect to a back injury or emotional condition and affirmed, as modified with respect to the finding that residuals of appellant's left ankle sprain ceased as of June 23, 1988.

Dated, Washington, DC
February 5, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ See *Lourdes Davila*, 45 ECAB 139 (1993). The hearing representative concluded that appellant had not established a recurrence of disability, although the record does not contain a notice of a recurrence of disability. To the extent that appellant is claiming disability from a back or emotional condition, she must first establish the condition as employment related. As noted above, she did not meet her burden of proof in this case.