

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANICE GARCEA and U.S. POSTAL SERVICE,
COOPER POST OFFICE, New York, NY

*Docket No. 00-1949; Submitted on the Record;
Issued July 19, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation on the grounds that she refused an offer of suitable work.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the February 17, 2000 decision of the Office hearing representative is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.

On appeal appellant argues that because the impartial medical examiner diagnosed "chronic back pain," that meant that he had identified total disability. However, this argument has no merit because the impartial medical examiner diagnosed only "lumbosacral sprain," noted that appellant had reached maximal medical improvement, and explained that she was "unequivocally functionally capable of performing a six-hour restricted-duty employment for the [employing establishment]."¹ The impartial medical examiner established that appellant could perform restricted duty for six hours a day; therefore, total disability was not demonstrated.

¹ When there exist opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical examiner for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight. *See Carl Epstein*, 38 ECAB 539 (1987); *James P. Roberts*, 31 ECAB 1010 (1980). The impartial medical examiner's well-rationalized decision constitutes the weight of the medical opinion evidence. *See Rosie E. Garner*, 48 ECAB 220 (1996); *Thomas Bauer*, 46 ECAB 257 (1994). Additional reports from appellant's physician, which essentially repeat his earlier findings and conclusions, are insufficient to overcome the weight accorded to the impartial medical examiner's report where appellant's physician had been on one side of the conflict in medical opinion that the impartial medical examiner resolved.

The decision of the Office of Workers' Compensation Programs dated February 17, 2000 is hereby affirmed.

Dated, Washington, DC
July 19, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member