

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TAMMIE REYNOLDS and U.S. POSTAL SERVICE,
POST OFFICE, Lexington, KY

*Docket No. 01-146; Submitted on the Record;
Issued May 8, 2001*

DECISION and ORDER

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

The issue is whether appellant sustained disability for work during the period April 8, 1998 through June 1, 1999 as a result of her accepted employment injury.

On February 19, 1998 appellant, then a 31-year-old letter carrier, filed a notice of occupational disease, alleging that she sustained a left elbow condition which she first became aware of and realized was causally related to factors of her federal employment on February 17, 1998. By decision dated March 6, 1998, the Office of Workers' Compensation Programs accepted appellant's claim for left shoulder strain. On August 12, 1998 appellant filed a claim for compensation (Form CA-7) claiming wage loss from February 17 to April 8, 1998. On March 16, 1999 the Office approved appellant's application to "buy back" her leave which she had used during this period.

On June 16, 2000 appellant filed a second claim for compensation (Form CA-7) claiming a schedule award and leave without pay (LWOP) from February 1, 1998 to June 1, 1999.¹ She also submitted an attending physician's report diagnosing her with "fibromyalgia."

By letter dated July 7, 2000, the Office requested that appellant submit additional evidence regarding her claim for a schedule award and LWOP. By letter dated July 28, 2000, she responded that she had been declared totally disabled on July 27, 2000 by the Social Security Administration and claimed that she would like to "settle" with the Office. The Office informed appellant that because she is considered disabled under the Social Security Act does not mean she is disabled under the Federal Employees' Compensation Act.

By decision dated September 21, 2000, the Office denied appellant's claim for compensation from February 1, 1998 to June 1, 1999 since the medical evidence of record failed

¹ The record includes a claim for a schedule award yet the Office issued no formal decision regarding this issue.

to establish that appellant was disabled for work due to the February 17, 1998 accepted employment injury.²

The Board has reviewed the record and finds that appellant has not sustained disability for work during the period April 8, 1998 through June 1, 1999 as a result of her accepted employment injury.

A claimant seeking benefits under the Act has the burden of proof to establish the essential elements of her claim by the weight of the evidence,³ including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.⁴

The medical evidence required to establish a causal relationship is rationalized medical opinion 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 the claimant'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 the claimant.⁵

In this case, appellant submitted a progress note from Dr. Ronald Schubert, a Board-certified family practitioner, dated April 8, 1998, in which he assessed: "left shoulder pain, resolved." She thereafter submitted evidence as of August 1998 diagnosing her with "fibromyalgia" as her medical condition, when her accepted employment injury was for "left shoulder strain." In a report from Dr. Schubert dated August 14, 1998, his assessment was: "fibromyalgia and chronic neck and shoulder pain secondary to work." He did not provide the medical basis for his diagnosis of fibromyalgia and offered no explanation as to why this condition was work related. Dr. Schubert's opinion is of limited probative value because while he diagnosed appellant with fibromyalgia, he did not provide a rationalized medical opinion on the issue of whether her current condition was causally related to the February 17, 1998 accepted employment injury. In a report from Dr. Paul M. Goldfarb, a Board-certified internist, dated October 30, 1998, he saw appellant for "fibromyalgia pain management," yet did not offer an opinion as to the cause of her condition. Appellant also submitted an attending physician's

² The Board notes that "an employee may, with the concurrence of the employing establishment, buy back sick or annual leave and thereby create a period of wage loss for which she may claim compensation, but the decision to allow such a buy back rests with the employing establishment, not with the Office or the Board. *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computation of Compensation*, Chapter 2.900.13(a) (January 1991). The Office had previously authorized leave buy back based upon Dr. Schubert's July 1, 1998 report for the period through April 8, 1998. There is no indication the Office rescinded this authorization. Therefore, the issue is appellant's entitlement to disability benefits after April 8, 1998.

³ *Nathaniel Milton*, 37 ECAB 712 (1986).

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

report from Dr. Schubert dated June 12, 2000, diagnosing her with “fibromyalgia.” Dr. Schubert did not mention the cause of appellant’s condition in his report.

Regarding the issue of disability, the record indicates that appellant worked intermittently during this time period. There is no medical opinion of record which explains when and why appellant was disabled after April 8, 1998 due to the accepted employment injury.

As appellant has not submitted a narrative medical opinion explaining how her medical condition of fibromyalgia and disability is related to her February 17, 1998 accepted employment injury, she has not established her burden of proof that she was disabled from work during the period of April 8, 1998 through June 1, 1999.

The decision dated September 21, 2000 of the Office of Workers’ Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 8, 2001

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member