

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA K. NICKLE and U.S. POSTAL SERVICE,
POST OFFICE, Catlin, IL

*Docket No. 00-560; Submitted on the Record;
Issued November 16, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained any disability after July 7, 1999 causally related to her accepted employment-related back injury.

The Board has duly reviewed the case record and finds that appellant failed to establish any disability after July 7, 1999.

This case has been on appeal previously.¹ In an October 13, 1999 decision, the Board reviewed and affirmed November 20 and June 25, 1997 decisions of the Office of Workers' Compensation Programs which denied appellant's claim for continuation of pay on the grounds that she failed to give written notice of her injury within 30 days of its occurrence as specified by the Federal Employees' Compensation Act. The Board also found that the Office properly denied appellant's request for a review of the written record pursuant to section 8124(b) of the Act.

On November 5, 1996 appellant, then a 55-year-old rural letter carrier, filed a traumatic injury claim alleging that on January 12, 1996 she hurt her lower back, legs and hips in an employment-related automobile accident. On June 25, 1997 the Office accepted appellant's claim for acute lumbar strain resulting from the January 12, 1996 automobile accident. Appellant stopped work on August 23, 1996 and returned to full duty on August 28, 1996. On November 13, 1997 appellant again stopped work and did not return. On July 22, 1998 appellant filed a claim for a recurrence of disability beginning November 13, 1997.

In a decision dated October 8, 1998, the Office denied appellant's claim for compensation from August 23 through August 28, 1996 and beginning November 13, 1997 on

¹ Docket No. 98-820 (issued October 13, 1999). The facts and history surrounding the prior appeals are set forth in the initial decision and are hereby incorporated by reference.

the grounds that the evidence failed to establish a causal relationship between the claimed recurrence of disability and appellant's January 12, 1996 accepted employment injury.

Appellant requested a review of the written record, and in a decision dated March 1, 1999, an Office hearing representative set aside the Office's prior decision on the grounds that further medical development was required. After such development, the Office informed appellant on August 9, 1999 that it had accepted her claim for a recurrence of disability beginning November 13, 1997 and continuing, but that appellant's treating physician had released her to full unrestricted duty on July 7, 1999 and, therefore, she was not entitled to compensation after that date.

On appeal, appellant contests the Office's determination that she is not entitled to compensation benefits after July 7, 1999.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³ As part of this burden the claimant must present rationalized medical evidence based upon a complete factual and medical background showing causal relationship.⁴

In his July 7, 1999 report, Dr. Thomas L. Sutter, an osteopath and appellant's treating physician, stated that appellant was doing fine and had no back pain or leg symptoms. Dr. Sutter noted that appellant had full range of motion of her back, with no ecchymosis, erythema or swelling, no paravertebral spasm and no tenderness. He further noted that appellant's straight leg raising was normal, deep tendon reflexes were intact and her vascular and sensory systems were normal in the lower extremities. Dr. Sutter concluded: "She will be released without restrictions to try her regular job.... She is certainly functioning well in the office today. She is having no symptoms. She is doing well. She can certainly give it a try and see how she does. I think she should do well."

Dr. Sutter's report is the most recent report of record and the record contains no contemporaneous contradictory reports whatsoever. His report establishes that appellant's disability for work ceased July 7, 1999, the day he released her to full duty. Absent any medical opinions to the contrary, appellant has failed to establish her claim for compensation benefits after July 7, 1999.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Joseph T. Gulla*, 36 ECAB 516 (1985).

The decision of the Office of Workers' Compensation Programs dated August 9, 1999 is hereby affirmed.

Dated, Washington, DC
November 16, 2001

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member