

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LUCRETIA RUSSELL and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Cleveland, OH

*Docket No. 00-429; Submitted on the Record;
Issued October 3, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant established that she was disabled for intermittent periods from February 27, 1992 through March 17, 1997 due to her accepted condition of bilateral ulnar neuritis.

Appellant, a 28-year-old letter sorter machine clerk, filed a notice of occupational disease on December 2, 1988 alleging that she developed pain in both hands due to factors of her federal employment. The Office of Workers' Compensation Programs accepted appellant's claim for bilateral ulnar neuritis on July 13, 1989. Appellant returned to full duty on September 21, 1991.¹

Appellant filed an additional claim for ulnar neuritis on October 27, 1996 alleging that additional employment factors had adversely affected her condition. By decision dated February 18, 1997, the Office accepted appellant's claim for bilateral ulnar neuritis. Appellant requested compensation for intermittent periods of disability from November 1, 1991 through September 9, 1997. By decision dated December 22, 1998, the Office denied appellant's claim.

Appellant requested an oral hearing, which was held on June 10, 1999. Appellant provided the specific dates for which she claimed compensation: February 27, 1992; November 8, 1993; April 5, September 29 and December 8, 1995; April 16 and July 31, 1996; January 6 and 27, 1997; February 24 through March 4, 1997; and March 13 through 17, 1997. By decision dated August 26, 1999, the hearing representative found that appellant had established through medical evidence that she was entitled to four hours of compensation on April 16 and July 31, 1996; January 6 and 27, and February 24, 1997. The hearing representative denied compensation for any other alleged disability.

The Board finds that appellant has not established additional periods of total disability.

¹ The record indicates that appellant had a stroke on June 26, 1992 and returned to work in September 1992. Appellant subsequently used maternity leave from June 23 to October 24, 1993.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of the Act and that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³

Appellant claimed that she was disabled on February 27, 1992 after her return to full duty in September 21, 1991. She submitted a note dated February 27, 1992 from Dr. Robert Blankfield, a Board-certified family practitioner.⁴ This note indicated that appellant reported burning in her elbows after several months of full duty. Dr. Blankfield diagnosed probable exacerbation of neuritis related to appellant's job. This is not sufficient to meet appellant's burden of proof in establishing disability on this date because Dr. Blankfield did not offer an opinion on the causal relationship between appellant's current diagnoses and her employment.

Appellant claimed disability related to her accepted ulnar neuritis on November 8, 1993 and submitted another note from Dr. Blankfield which indicated that appellant had resolving stress and felt able to key for only four hours a day. He also provided work restrictions. These reports are not sufficient to meet appellant's burden of proof because Dr. Blankfield did not indicate that appellant was totally disabled for any period due to her accepted condition.

On April 5, 1995 Dr. Blankfield again diagnosed ulnar neuritis but did not indicate that appellant was totally disabled due to this condition. Therefore, appellant has not established disability on this date.

Dr. Blankfield examined appellant on September 29, 1995 for a sore throat and chest discomfort. He indicated that appellant could increase her keying to five to six hours a day, thus lessening her restrictions, but did not opine that appellant was totally disabled due to her accepted condition. Therefore, this note is not sufficient to meet appellant's burden of proof in establishing disability on September 29, 1995.

Appellant sought medical attention on December 8, 1995 and Dr. Blankfield indicated that the condition of appellant's hands was approximately the same. He did not provide an opinion on the degree of appellant's disability and thus she is not entitled to compensation on this date.

Appellant claimed compensation benefits from February 24 through March 3, 1997 and from March 13 through 17, 1997. The hearing representative authorized four hours of compensation on February 24, 1997 and found that there was insufficient rationalized medical opinion evidence to establish the additional periods alleged.

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

⁴ This note was signed by a nurse and initialed by Dr. Blankfield.

In a report dated April 8, 1997, Dr. Blankfield stated that he examined appellant on February 24, 1997 due to discomfort in both hands. He opined: "Following my examination, it was my impression that [appellant's] hand symptoms might be in part due to the ulnar neuritis. Since [appellant's] medical history is complicated, I was uncertain as to how much of her symptoms were related to the residual effects of the stroke, and how much of the symptoms were related to stress."

Dr. Blankfield removed appellant from duty February 24 through March 3, 1997. He examined appellant again on March 3, 1997 and concurred with her psychiatrist that she should not return to work until March 17, 1997. Dr. Blankfield examined appellant on March 10, 1997 and stated: "At that time, some of her hand symptoms had improved. It was my impression that her symptoms continued to be possible due to a combination of ulnar neuritis, along with residual weakness following the stroke."

This report is not sufficient to establish appellant's total disability for work from February 24 through March 17, 1997. Dr. Blankfield is equivocal on whether appellant's disability is due to the accepted condition rather than to her nonemployment-related stroke or to an emotional condition. He also failed to provide any reasoning for his decision to extend appellant's disability through March 17, 1997 other than reliance on the opinion of appellant's psychiatrist. For these reasons, appellant has failed to establish that she is entitled to compensation for this period.⁵

Appellant has failed to submit the necessary medical opinion evidence to establish total disability due to her accepted employment condition for the periods she claims. Therefore, she has failed to meet her burden of proof.

The August 26, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 3, 2001

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁵ The Board notes that the employing establishment suspended appellant from March 9 through 15, 1997. Appellant indicated at the oral hearing that this suspension was revoked and that she received pay for this period.