

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HATTIE L. THOMAS and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, MI

*Docket No. 00-2398; Submitted on the Record;
Issued September 7, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has any employment-related disability after April 16, 1996, the date the Office of Workers' Compensation Programs terminated her compensation benefits.

This case has been before the Board previously. By decision dated April 2, 1999, the Board found that the Office properly terminated appellant's compensation benefits, effective April 16, 1996 and that appellant had not met her burden of proof to establish that she had any employment-related disability after that date. In an order dated August 24, 1999, the Board denied appellant's petition for reconsideration. Appellant subsequently filed petitions for reconsideration with the Office and, in decisions dated November 29, 1999 and April 12, 2000, the Office denied modification of the prior decisions. The instant appeal follows.

The Board finds that appellant has failed to establish that she has any employment-related disability after April 16, 1996.

The Board previously held that the Office properly terminated appellant's compensation benefits. The burden, therefore, shifted to her to establish that she had disability causally related to the accepted employment injury.¹ To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.² Causal relationship is a medical issue,³ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the

¹ See *George Servetas*, 43 ECAB 424 (1992).

² See 20 C.F.R. § 10.110(a); *Kathryn Haggerty*, 45 ECAB 383 (1994).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

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.⁴

With her requests for reconsideration, appellant submitted additional medical evidence including a magnetic resonance imaging (MRI) scan of the lumbar spine dated March 4, 1999 that revealed multiple small protrusions but no evidence of compressive disc disease, stenosis, spondyloarthrosis or neural encroachment. Nerve conduction studies performed on August 5, 1999 were interpreted by Dr. Jacquelyn G. Lockhart, a Board-certified physiatrist, as normal. Electromyography (EMG) of that same day was interpreted by Dr. Lockhart as an abnormal study with electrophysiologic evidence indicative of chronic left L5 radiculopathy with evidence of ongoing denervation and reinnervation and right lower lumbar nerve root irritation.

Dr. Lockhart also submitted a number of treatment notes and reports. In a report dated February 23, 1999, she provided a history of appellant's slip and fall on ice while delivering mail in 1974. Dr. Lockhart also noted that on December 23, 1997 appellant fell through a ceiling, landing on her feet in a squatting position. She also reported a history that appellant was injured in a motor vehicle accident for which ongoing treatment was required. Appellant had arthroscopic surgery to her left knee in 1998 and reported that she needed surgery on her right knee. Dr. Lockhart noted findings on examination of the low back and lower extremities and diagnosed chronic left lower lumbar radiculitis, right greater trochanteric bursitis, lumbar degenerative disc disease and opined that appellant was deconditioned. She concluded:

“Based on the history provided to me and the clinical examination, in my medical opinion, [appellant's] work activities and described injuries significantly contributed to the diagnoses of left lower lumbar radiculitis as well as lumbar degenerative disc disease. In my medical opinion, the right greater trochanteric bursitis is more so related to [appellant's] impaired mobility, muscle tightness and deconditioned state. Considering the chronicity of her signs and symptoms (over 20 years), her prognosis for further substantial recovery is extremely guarded.... She is permanently unable to return to her job as a mail carrier.”

In subsequent reports dated April 1, 19 and 29, May 11 and June 10, 1999, Dr. Lockhart noted appellant's complaints of pain, findings on examination and advised that appellant underwent a series of trigger point injections. In a January 11, 2000 report, she noted that it was her understanding that appellant had documentation of a lumbar herniated disc at either the L4-5 or L5-S1 level and was diagnosed with lumbar radiculopathy. Dr. Lockhart further opined that, while the MRI scan study from March 4, 1999 did not show the exact same findings but merely showed evidence of minimal protrusion at the L4-5 level, the natural history of a lumbar herniated disc would either be that the disc was eventually resorbed or the disc would become calcified. She concluded that it would be reasonable to have the current MRI scan findings in a patient who had a ruptured disc back in 1975. Dr. Lockhart further noted that when annular

⁴ Gary L. Fowler, 45 ECAB 365 (1994); Victor J. Woodhams, 41 ECAB 345 (1989).

fibers that house the disc have been disrupted, this caused the release of proteoglycans which break down arachidonic acid which could cause irritation to the exiting dorsal root ganglion leading to chronic inflammation in the nerve root and chronic pain or radiculitis. She further opined that following a lumbar strain/sprain, postinjury strength was approximately 50 to 70 percent of that prior to the injury and caused a permanent abnormality anatomically and clinically. Dr. Lockhart noted appellant's abnormal EMG findings. She concluded:

“Other than stating these clinical facts, I cannot explain any further why [appellant's] clinical presentation over the years has varied. However, I can state this, that based on the multitude of medical records I have reviewed, her complaints have been consistent over the course of these many years. In evaluating a patient with a chronic problem, it is important not only to look at any anatomic derangement, but also the fact that the patient has developed a chronic pain syndrome. The chronic pain syndrome is directly causally related to the patient's initial work injury. In other words, had it not been for the initial injury, the chronic pain syndrome would not be present. The same holds true for the left L5 radiculopathy and right lower lumbar nerve root irritation. The most recent MRI scan study shows a very minimal disc protrusion/herniation at the L4-5 level. This is certainly consistent with the findings made back in 1975.”

A claimant's burden of proof includes the necessity of furnishing medical evidence from a physician who provides an opinion that is based on a complete factual and medical background and is supported by medical rationale, which establishes that the diagnosed condition resulted from specific employment activities. A medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, but neither can the opinion be speculative or equivocal.⁵ In this case, the Board finds that Dr. Lockhart's opinion is of diminished probative value because her opinion on casual relationship is equivocal and did not address how appellant's fall through the ceiling and her motor vehicle accident impacted her current condition. Dr. Lockhart's opinion, therefore, fails to support that appellant continues to have a disabling employment-related condition and appellant has not met her burden of proof.

⁵ *Roger Dingess*, 47 ECAB 123 (1995).

The April 12, February 8 and January 29, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
September 7, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member