

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LOUISE IANAZZI and U.S. POSTAL SERVICE,  
POST OFFICE, Brooklyn, NY

*Docket No. 01-1231; Submitted on the Record;  
Issued April 19, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation effective March 6, 2000.

On November 12, 1994 appellant, then a 35-year-old clerk, filed a claim alleging that she sustained injuries when a shelf with parcels collapsed. The Office accepted that appellant sustained a concussion, cervical sprain and contusions to the left shoulder, left knee and chest wall. By decision dated July 19, 1996, the Office terminated compensation on the grounds that she refused an offer of suitable work.

In a decision dated September 8, 1999, the Board reversed the July 19, 1996 decision.<sup>1</sup> The Board found that the record did not establish that the physician selected as an impartial medical specialist was Board-certified.

By letter dated February 1, 2000, the Office advised appellant that it proposed to terminate her compensation on the grounds that the medical evidence established that her employment-related conditions had resolved. In a decision dated March 6, 2000, the Office terminated appellant's compensation for wage-loss and medical benefits. By decision dated March 2, 2001, the Office denied modification.

The Board finds that the Office met its burden of proof to terminate compensation.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation. After it has been determined that an employee has disability causally related to her employment, the Office may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.<sup>2</sup>

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<sup>1</sup> Docket No. 98-428.

<sup>2</sup> *Patricia A. Keller*, 45 ECAB 278 (1993).

The Office referred appellant, along with medical records and a statement of accepted facts, to Dr. Robert J. Orlandi, an orthopedic surgeon. In a report dated January 19, 2000, he provided a history and detailed results on examination. Dr. Orlandi diagnosed resolved cervical sprain, resolved lumbar sprain with multiple false positive physical findings, and unrelated Grade 1 spondylolisthesis. He concluded, “[t]oday’s examination does not document the presence of a musculoskeletal disability or the need for work restriction. I do not recommend treatment. I recommend [appellant] return to work without restriction and I anticipate no permanent residuals. There is no need for additional diagnostic testing.”

The Board finds that Dr. Orlandi provided a reasoned opinion that residuals of the employment injuries had ceased. Appellant had the opportunity to submit additional medical evidence, but did not do so prior to the termination decision. The Board finds that the weight of the medical evidence established that residuals of the employment injuries had ceased and therefore, the Office met its burden of proof to terminate compensation as of March 6, 2000.

After termination or modification of benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to appellant. In order to prevail, appellant must establish by the weight of the reliable, probative and substantial evidence that he had an employment-related disability that continued after termination of compensation benefits.<sup>3</sup>

In this case, appellant submitted a June 30, 2000 report from the attending physician, Dr. Tito Musacchio, a surgeon, who indicated that he last treated appellant on June 19, 2000, with complaints of low back pain radiating into the legs. He stated that a magnetic resonance imaging scan showed spondylolisthesis at L5-S1, that appellant’s condition had not improved and was progressing and he concluded that appellant was totally disabled for the near and remote future. This report is of diminished probative value to the issues presented because Dr. Musacchio does not provide a reasoned medical opinion on causal relationship between a continuing condition or disability and the employment injuries. The condition of spondylolisthesis is not an accepted condition and Dr. Musacchio does not clearly explain causal relationship with the 1994 employment incident. Accordingly, the Board finds that appellant did not meet her burden of proof to show entitlement to compensation benefits after March 6, 2000.

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<sup>3</sup> *Talmadge Miller*, 47 ECAB 673, 679 (1996); *see also George Servetas*, 43 ECAB 424 (1992).

The decision of the Office of Workers' Compensation Programs dated March 2, 2001 is affirmed.

Dated, Washington, DC  
April 19, 2002

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member