

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGEL C. STRICKLEN and U.S. POSTAL SERVICE,
POST OFFICE, Kansas City, KS

*Docket No. 01-1597; Submitted on the Record;
Issued April 2, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant met her burden of proof in establishing that she had any disability from January 1, 1996 to October 19, 1997 and from December 2, 1997 to March 11, 1998 causally related to the accepted injuries.

On December 1, 1997 appellant, then a 35-year-old clerk, filed a claim alleging that she sustained a hernia as a result of her lifting and bending duties at the employing establishment. The Office of Workers' Compensation Programs accepted her claim for right inguinal hernia and authorized an indirect right hernia repair. Appellant stopped work on September 18, 1997 and returned to limited duty on December 2, 1997 and worked intermittently until March 11, 1998.

Accompanying appellant's claim were treatment notes from Dr. Valerie Rice, an obstetrician, dated February to September 1996; a report from Dr. Gilbert R. Parks, a Board-certified psychiatrist, dated August 26, 1997; an operative report from Dr. Anne C. Rhoads, a Board-certified general surgeon, dated October 21, 1997; and a report from Dr. Daniel L. Stewart, a Board-certified obstetrician and gynecologist, dated November 20, 1997. The treatment notes from Dr. Rice dated February to September 1996 indicated that appellant was treated for chronic pelvic pain, endometriosis and irritable bowel syndrome. The report from Dr. Parks dated August 26, 1997 indicated that appellant was being treated for exacerbated physical and mental problems. He noted that appellant was involved in a car accident in October 1996 causing psychiatric trauma. Dr. Parks noted that appellant was absent from work since July 25, 1997. The operative report from Dr. Rhoads dated October 21, 1997 noted a postoperative diagnosis of indirect right inguinal hernia. She indicated that appellant had chronic problems with abdominal pain due to endometriosis. Dr. Rhoads noted that the most recent laparoscopy demonstrated an inguinal hernia; however, she noted that this was not felt to be the source of all appellant's abdominal pain. The report from Dr. Stewart dated November 20, 1997 noted that appellant had a history of endometriosis. He indicated that he performed a laparoscopy for endometriosis and discovered the inguinal hernia. Dr. Stewart excused appellant from work from the time of surgery and for a few days postoperatively. He noted that he did not know the etiology of appellant's chronic pelvic pain.

By letter dated January 20, 1998, the Office requested additional factual and medical evidence from appellant stating that the initial information submitted was insufficient to establish that appellant was totally disabled for the period of time claimed. The Office advised appellant of the type of medical evidence needed to establish this claim.

Appellant submitted an operative note along with her narrative report from Dr. Michael Thompson, a Board-certified general surgeon, dated September 6, 1995; a note from Dr. Kathleen Stone-Kaseff, a Board-certified obstetrician, dated February 20, 1998 and two reports from Dr. S.R. Katta, Board-certified in physical medicine and rehabilitation, dated February 20 and February 25, 1998. The operative note indicated that appellant underwent an esophagogastroduodenoscopy. Dr. Thompson diagnosed appellant with mild reflux esophagitis. He indicated that no significant hiatal hernia was identified. Dr. Stone-Kaseff's report dated February 20, 1998 noted that appellant had experienced chronic pelvic pain since 1994. She noted that the pelvic pain was caused by a right inguinal hernia which had been repaired and thereafter, the pelvic pain resolved. Dr. Stone-Kaseff opined that the pelvic pain was from the right inguinal hernia as the endometriosis was minimal. She believed the inguinal hernia was not congenital. Dr. Katta's notes dated February 20 and February 25, 1998 indicated that appellant sustained a chronic cervical sprain from a motor vehicle accident which occurred on October 10, 1996.

On February 23, 1999 appellant filed a Form CA-7 requesting wage-loss compensation for disability for the intermittent period January 1, 1996 to March 11, 1998. She indicated that from October 11, 1996 to July 19, 1997 she was incapacitated due to an automobile accident and was not claiming compensation for this period.

Subsequently, appellant submitted medical reports from Dr. Rhoads dated April 9, 1998 and Dr. Stewart dated April 30, 1998. Dr. Rhoads indicated that on October 20, 1997 appellant underwent a right inguinal exploration and a congenital hernia was repaired. She noted that appellant was born with the defect. Dr. Rhoads noted that appellant's hernia was small and opined that, while it may have contributed to appellant's abdominal complaints, it was not felt to be the sole source of her pain. Dr. Stewart's report noted that the usual time for recovery after surgical repair was from days to weeks.

Appellant's case record was sent to the Office medical adviser who in a report dated August 24, 1999 indicated that appellant's hernia was an incidental finding and could not be imputed to have impacted upon appellant's ability to work prior to the date of the operative procedure. He noted that after the operative procedure on October 21, 1997 appellant would be expected to be able to perform light or sedentary duties by November 4, 1997, which was approximately two weeks after the procedure. The Office medical adviser further noted that there was no medical reason to have kept appellant off work after this period.

In a decision dated July 24, 2000, the Office denied appellant's claim, finding that the evidence was not sufficient to establish that the claimed period of disability beginning January 1, 1996 to October 19, 1997 and from December 2, 1997 to March 11, 1998 was causally related to appellant's accepted injury of January 1996.

By letter dated August 9, 2000, appellant through her attorney requested a hearing before an Office hearing representative. She submitted duplicative medical records and a deposition transcript of Dr. Stone-Kaseff. The hearing was held on January 24, 2001. Appellant testified that her chronic pelvic pain and intermittent lost time from work was attributed to lifting heavy tubs and bundles of mail. She noted that she was involved in an automobile accident in October 1996 and was off work because of her injuries from October 1996 to July 1997. Appellant testified that in July 1997 she returned to a limited-duty position. Thereafter she experienced abdominal problems and underwent a laparoscopy in September 1997 where the doctor discovered an inguinal hernia. Appellant noted that the inguinal hernia was repaired and she returned to work in December 1997, nearly six weeks after the surgery. The deposition of Dr. Stone-Kaseff indicated that during the period of 1994 to 1997 appellant's pain resulted from both the hernia and endometriosis. Dr. Stone-Kaseff noted that it was possible that appellant's hernia existed throughout 1994 to 1997. She further indicated that appellant's hernia was a significant component of her pain and appellant's employment duties may have greatly aggravated the hernia.

In a decision dated April 16, 2001, the hearing representative affirmed the decision of the Office dated July 24, 2000 on the grounds that the evidence was not sufficient to establish that the claimed period of disability was causally related to appellant's accepted injuries of January 1996.

The Board finds that appellant has failed to establish that her condition during the claimed period of disability is causally related to the accepted employment injury of January 1996.

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that the period of claimed disability was caused or adversely affected by the employment injury. As part of this burden, he must submit rationalized medical opinion evidence based on a complete factual and medical background showing a causal relationship between his disability and the federal employment.¹

The Office accepted appellant's claim for right inguinal hernia and indirect hernia repair. However, the medical evidence submitted in support of the wage-loss compensation claim for disability for the period beginning January 1, 1996 to October 19, 1997 and from December 2, 1997 to March 11, 1998 is insufficient to establish that the claimed period of disability was caused or aggravated by the accepted employment injury.

Appellant's treating physician, Dr. Stewart, submitted various reports but did not specifically address whether appellant's January 1996 injury caused or aggravated her disability during the claimed period at issue, January 1, 1996 to October 19, 1997 and from December 2, 1997 to March 11, 1998. Dr. Stewart's report dated November 20, 1997 indicated that appellant underwent a laparoscopy for endometriosis when he discovered the inguinal hernia. He excused appellant from work from the time of laparoscopy surgery and for a few days postoperatively. Dr. Stewart noted, with regard to appellant, that he did "not have an etiology of her chronic pelvic pain." He further opined that the usual time for recovery after surgical repair of a hernia

¹ See *Nicolea Bruso*, 33 ECAB 1138 (1982).

was from days to weeks. However, Dr. Stewart's opinion did not support the period of disability at issue but suggested appellant's recovery was from days to weeks. Therefore, these reports are insufficient to meet appellant's burden of proof.

Other reports and testimony from Dr. Stone-Kaseff's report dated February 20, 1998 indicated that appellant had experienced chronic pelvic pain since 1994 which was caused by a right inguinal hernia. Even though Dr. Stone-Kaseff noted that appellant was still experiencing symptoms of her inguinal hernia condition, she did not in this report or in others, specifically address whether appellant had employment-related disability beginning January 1, 1996 to October 19, 1977 and December 2, 1997 to March 11, 1998. She merely indicated that appellant would intermittently miss days of work without any indication of any specific dates on which the accepted employment injury caused disability. Additionally, in her deposition, Dr. Stone-Kaseff indicated that during the period of 1994 to 1997 appellant's pain "resulted from both the hernia and endometriosis..." However, Dr. Stone-Kaseff only offered speculative support for causal relationship by opining that "it was possible that this hernia existed throughout that time" from 1994 to 1997 and appellant's employment duties "may have greatly aggravated the hernia..." The Board has held that speculative and equivocal medical opinions regarding causal relationship have diminished probative value.² Therefore, these reports are insufficient to meet appellant's burden of proof.

The reports from Dr. Rhoads indicated appellant's disability status but they did not attempt to explain the relationship between the claimed period of disability and the January 1996 work injury. Rather her reports dated October 21, 1997 and April 9, 1998 indicated that the most recent laparoscopy revealed an inguinal hernia; however, she noted that "this was not felt to be the source of all her abdominal pain." She noted that appellant's hernia was small and "while it may have contributed to her abdominal complaints, it was not felt to be the sole source of pain." Therefore, these reports are insufficient to meet appellant's burden of proof.

The Office medical adviser, in a report dated August 24, 1999, indicated that appellant's hernia was an incidental finding and could not be imputed to have impacted upon appellant's ability to work prior to the date of the operative procedure. He noted that after the operative procedure on October 21, 1997 appellant would be expected to be able to perform light or sedentary duties by November 4, 1997, which was approximately two weeks after the procedure. The Office medical adviser further noted that there was no medical reason to have kept appellant off work after this period.

Additionally, the employing establishment offered appellant a light-duty assignment beginning July 1997 which complied with appellant's medical restrictions and subsequently offered appellant a permanent limited-duty assignment in December 1997 which was also in compliance with appellant's medical restrictions. There is no credible evidence that appellant

² Speculative and equivocal medical opinions regarding causal relationship have no probative value; *see Alberta S. Williamson*, 47 ECAB 569 (1996); *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Paul E. Davis*, 30 ECAB 461 (1979).

was denied appropriate light-duty work during periods in which the medical evidence showed that she could perform light duty.³

The remainder of the medical evidence fails to provide a specific opinion on causal relationship between the claimed period of disability and the accepted employment injury of January 1996. Consequently, the medical evidence did not establish that the claimed periods of disability were due to appellant's employment injury.

The decisions of the Office of Workers' Compensation Programs dated April 16, 2001 and July 24, 2000 are hereby affirmed.

Dated, Washington, DC
April 2, 2002

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

³ See *Terry R. Hedman*, 38 ECAB 222 (1986).