

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES STROUD and U.S. POSTAL SERVICE,  
TRANSPORTATION OPERATION, St. Louis, MO

*Docket No. 01-2023; Submitted on the Record;  
Issued April 8, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,  
DAVID S. GERSON

The issue is whether appellant established that he was entitled to compensation and/or continuation of pay as a result of his accepted right elbow sprain.

On March 5, 2001 appellant, then a 40-year-old motor vehicle operator, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that on that date he sustained pain in his right forearm resulting from pulling a bulk mail carrier. By letter dated March 9, 2001, the employing establishment controverted the claim for continuation of pay. The employing establishment noted that if appellant was not fit for full duty, limited duty was available. By letter dated March 16, 2001, the Office of Workers' Compensation Programs accepted appellant's claim for right elbow strain.

On the date of the injury, March 5, 2001, appellant elected to see Dr. Elbert H. Cason, a Board-certified surgeon, who determined that appellant had a mild strain of the right elbow and returned him to full duty.

Appellant also saw Dr. H. Charles Hiatt, a Board-certified internist, on March 5, 2001, who diagnosed appellant as suffering from a right arm strain. In this report, Dr. Hiatt was unclear as to appellant's disability status. In the place marked period of disability, Dr. Hiatt indicated "unknown." In response to a question, "If employee is able to resume work, has he/she been advised," Dr. Hiatt responded by checking the box marked "no." However, medical certification forms completed by Dr. Hiatt indicated that appellant was totally incapacitated and unable to work from March 6 to 13, 2001 and from March 19 to April 2, 2001. In a medical note dated March 30, 2001, Dr. Dale T. Furukawa, a Board-certified internist and an associate of Dr. Hiatt, stated that appellant may return to work on April 2, 2001, light duty, and may not use his right arm for anything. He also noted that appellant must have a straight back chair and may need more frequent breaks. In a report dated April 6, 2001, Dr. Furukawa stated that he had treated appellant with pain medication, anti-inflammatories and rest, that appellant continued to have significant pain, decreased range of motion and that because of this it was necessary to keep

him off work. In a medical certification form, Dr. Hiatt indicated that appellant was unable to work from April 20 to 24, 2001.

In medical reports dated March 13, 2001, Dr. Donald L. Pruitt, a Board-certified orthopedic surgeon, indicated that appellant had acute lateral epicondylitis, put him on some anti-inflammatory medication and put him on work restrictions of no lifting of the right arm and no heavy lifting. In a medical report dated March 29, 2001, Dr. Pruitt stated that appellant's lateral epicondyle appeared to be healing and that appellant could do light duty with no use of his right arm at this time. In a medical report dated April 19, 2001, Dr. Pruitt noted that appellant has not improved and that his lateral epicondylitis was becoming more chronic in nature. Dr. Pruitt gave him a cortisone injection, took him off physical therapy, and indicated, "I have got him on no work." By note dated April 23, 2001, Dr. Pruitt stated that appellant may return to regular duty on April 24, 2001. In an attending physician's report dated April 27, 2001, Dr. Pruitt indicated that appellant's lateral epicondylitis was caused or aggravated by his employment and that he was partially disabled from the time he first saw him on March 13, 2001 until April 24, 2001. Dr. Pruitt again returned appellant to full duty on May 31, 2001.

By decision dated June 8, 2001, the Office disallowed appellant's claim because it found that the file remained devoid of a rationalized medical opinion from a physician that explains why appellant was unable to perform at least limited duty.

The employee has the burden of proving that he or she is disabled for work as a result of an employment injury or condition. This burden includes the necessity of submitting medical opinion evidence, based upon a proper factual and medical background, establishing such disability and its relationship to the employment.<sup>1</sup>

Even though the Office accepted his claim that he sustained a right elbow strain causally related to his work injury of March 5, 2001, appellant still has the burden of proof to establish that this accepted condition resulted in his periods of disability from March 6 to April 23, 2001. Appellant has not met his burden.

Appellant was initially seen by Dr. Cason on the date of injury, and he returned appellant to full duty. The medical reports of Drs. Hiatt and Furukawa indicate that appellant was totally disabled for various periods between March 6, 2000 and April 21, 2001. However, these doctors fail to provide a rationalized explanation as to why appellant was unable to work even in a limited-duty capacity. With regard to the reports by Dr. Pruitt, the Board finds that Dr. Pruitt indicated that appellant was only partially disabled from March 23 until April 24, 2001. Although in his April 19, 2001 report, Dr. Pruitt indicated that appellant was off work for a few days, he did not clearly indicate which days, nor did he provide a rationalized explanation for his inability to perform work.

As none of the medical reports provide a rationalized explanation as to why appellant was totally disabled, the Office properly denied appellant's claim for compensation and continuation of pay.

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<sup>1</sup> *Paul Fiedor*, 32 ECAB 1364 (1981); *see also Yvonne R. McGinnis*, 50 ECAB 272 (1999).

The decision of the Office of Workers' Compensation Programs dated June 8, 2001 is affirmed.

Dated, Washington, DC  
April 8, 2002

Alec J. Koromilas  
Member

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member