

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARRIE M. McBRIDE and U.S. POSTAL SERVICE,
POST OFFICE, San Jose, CA

*Docket No. 00-1570; Submitted on the Record;
Issued January 22, 2002*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant is entitled to disability compensation commencing March 1, 1999.

In this case, the Office of Workers' Compensation Programs accepted that appellant sustained work-related injury on May 13, 1992. The Office accepted bilateral shoulder rotator cuff tear with surgical repair; right ulnar neuropathy with surgical compression; and bilateral carpal tunnel syndrome with surgical releases as a result of cumulative trauma while employed as a letter carrier. Appellant received appropriate compensation and eventually returned to work in February 1997 in a modified capacity as a general clerk. The Office determined that this position represented her wage-earning capacity. Appellant retired from the employing establishment effective September 19, 1998.

On February 9, 1999 appellant filed a claim for continuing compensation commencing March 1, 1999. In support of her claim, appellant submitted a June 2, 1998 report from Dr. Edward C. Littlejohn, appellant's treating physician and a Board-certified orthopedic surgeon. In his report, Dr. Littlejohn stated that he had been treating appellant since 1994 and that as a result of repetitive stress injuries in the upper extremities beginning in 1992, she became unable to function at work. He noted bilateral degenerative shoulder arthritis, osteoarthritis of the right thumb and hand, torn triangular fibrocartilage of the right wrist, ulnar neuropathy of the right elbow and bilateral carpal tunnel release. Dr. Littlejohn stated that appellant suffered from multiple degenerative conditions of her upper extremities and that "[r]etirement for this woman is the most appropriate course of action."

By letter dated June 7, 1999, the Office notified appellant that her claim for wage-loss compensation beginning March 1, 1999 did not include medical evidence or loss of wage-earning capacity information to support her claim. It further advised her that she needed to submit medical evidence to support her claim that she could no longer work as a result of her work-related injuries.

In a report dated July 19, 1999, Dr. Littlejohn stated that appellant has worsening osteoarthritis, right shoulder and left thumb and stable left carpal tunnel. In a report dated November 29, 1999, Dr. Littlejohn stated that he had last treated appellant in July 1999 and that she would eventually need prosthetic replacement of the right shoulder. He added that appellant “is now in need of receiving benefits required to allow her to have this medically necessary treatment. This evidently becomes a recurrent claim.” Appellant also submitted an attending physician’s report dated January 3, 2000, in which he noted appellant’s long-term complete disability.

By letter dated January 25, 2000, the Office notified appellant that it was unable to process her claim because she needed to present evidence that she was disabled from the modified position to which she was assigned in 1997. The Office advised her that it would keep her claim open for 30 days so she could provide the requested information. By decision dated March 15, 2000, the Office denied appellant’s claim for disability compensation from March 1, 1999 to that date.

The Board finds that appellant failed to establish that she is entitled to disability compensation commencing March 1, 1999.

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, 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 and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In this case, appellant accepted a modified position effective February 24, 1997. She was restricted from the repetitive use of either arm, from pushing and pulling, from lifting more than 10 pounds, from forceful use of her right arm and from writing more than 10 minutes at a time and no more than 1 hour a day. She retired effective September 19, 1998.

To establish entitlement to compensation from March 1, 1999 appellant was required to submit medical evidence that would support her disability from her restricted position as a modified clerk. The reports from Dr. Littlejohn, her treating physician, merely noted appellant’s medical conditions, including her projected need for a prosthetic right shoulder and her need for benefits. He did not provide a rationalized medical opinion supporting appellant’s claim that she was totally disabled from her modified position. Dr. Littlejohn made no reference to that position, nor did he explain what specific acts she could no longer perform that were included in

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *David M. Ibarra*, 48 ECAB 218 (1996).

the modified position description which he had approved. Appellant failed to establish that she was disabled from her modified position as a general clerk from March 1, 1999.

The March 15, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
January 22, 2002

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member