

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MELVIN E. ARMSTRONG and U.S. POSTAL SERVICE,
POST OFFICE, Shreveport, LA

*Docket No. 01-1922; Submitted on the Record;
Issued May 2, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he is entitled to wage-loss compensation for the period January 21 through February 12, 2001.

On December 5, 2000 appellant, then a 50-year-old mailhandler/equipment operator, sustained an employment-related lumbar strain. He stopped work that day, returned to limited duty on December 12, 2000, stopped again on December 21, 2000 and returned on February 13, 2001. On February 25, 2001 appellant filed a CA-7, claim for compensation, for the period January 21 through February 12, 2001 and submitted medical evidence from Dr. Carl G. Goodman, his treating Board-certified orthopedic surgeon.

By letter dated March 23, 2001, the Office of Workers' Compensation Programs informed appellant of the type evidence needed to support his claim for wage-loss compensation for the period January 21 through February 12, 2001. This was to include a detailed medical narrative with a medical explanation as to why he was temporarily totally disabled for that time period. In response, appellant submitted additional medical evidence. By decision dated June 1, 2001, the Office denied appellant's claim for wage-loss compensation for the period January 21 through February 12, 2001 on the grounds that the medical evidence did not support that he was disabled from work for that period.¹

The Board finds this case is not in posture for decision.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of

¹ The record further contains a decision dated March 20, 2001 in which the Office found that appellant was not entitled to continuation of pay for the period December 6, 2000 to January 19, 2001. Appellant, however, requested reconsideration of this decision with the Office on May 15, 2001 and filed the instant appeal with the Board on July 18, 2001. The March 20, 2001 decision is, therefore, in an interlocutory position and is not before the Board at this time.

record establishes that he or she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he or she cannot perform such light duty. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.²

Under the Federal Employees' Compensation Act³ the term "disability" means incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury. Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn the wages. An employee who has a physical impairment causally related to a federal employment injury, but who nonetheless has the capacity to earn wages she was receiving at the time of injury, has no disability as that term is used in the Act, and whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.⁴

Causal relationship is a medical issue⁵ 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 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.⁶

The medical evidence includes a report dated December 8, 2000 in which Dr. Carl G. Goodman, appellant's treating Board-certified orthopedic surgeon, noted findings on examination and advised that he should not work until December 12, 2000 when he could return to light duty. In a report dated December 21, 2000, he diagnosed lumbar disc disease with lumbar strain and sprain and advised that appellant could not work for two weeks. In a form report dated January 9, 2001, Dr. Goodman diagnosed lumbar strain and sprain and advised that appellant was unable to work for two weeks. By report dated January 25, 2001, he diagnosed resolving lumbar strain and sprain and advised that appellant could return to work without restrictions on February 13, 2001. In a attending physician's report dated February 20, 2001, Dr. Goodman diagnosed lumbar strain and strain, checked the "yes" box, indicating that the condition was employment related and advised that appellant could return to work on February 13, 2001. He stated that appellant was totally disabled for the period December 8, 2000 through February 12, 2001. In a report dated April 10, 2001, Dr. Goodman advised that

² *Mary A. Howard*, 45 ECAB 646 (1994); *Cynthia M. Judd*, 42 ECAB 246 (1990); *Terry R. Hedman*, 38 ECAB 222 (1986).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Maxine J. Sanders*, 46 ECAB 835 (1995).

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁶ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

appellant had been under his care since 1997 with diagnoses of degenerative lumbar disc disease and lumbar strain and sprain. He noted the history of the December 2000 employment injury and further stated that appellant had returned to full duty on February 23, 2001. Dr. Goodman concluded, “the prognosis is that he will have chronic back problems with acute exacerbations that will require treatment.”

While the reports of Dr. Goodman are insufficient to establish that appellant continued to be disabled for the period January 21 to February 13, 2001, the fact that they contain deficiencies preventing appellant from discharging his burden does not mean that they may be completely disregarded by the Office. It merely means that their probative value is diminished. Dr. Goodman consistently diagnosed lumbar strain and sprain and, in his attending physician’s report dated February 20, 2001, he specifically stated that appellant had been totally disabled for the period December 8, 2000 through February 12, 2001. His opinion is thus sufficient to require further development of the record.⁷ It is well established that proceedings under the Act are not adversarial in nature⁸ and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.⁹ On remand the Office should refer appellant to an appropriate Board-certified specialist for a rationalized medical opinion on the issue of whether appellant’s employment-related condition prevented him from performing his light-duty work for the period in question. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

⁷ See *Lourdes Davila*, 45 ECAB 139 (1993); *John J. Carlone*, 41 ECAB 354 (1989). The Board notes that the case record does not contain a medical opinion contrary to appellant’s claim and further notes that the Office did not seek advice from an Office medical adviser or refer the case for a second-opinion evaluation regarding the recurrence of disability.

⁸ See, e.g., *Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985).

⁹ See *Dorothy L. Sidwell*, 36 ECAB 699 (1985).

The decision of the Office of Workers' Compensation Programs dated June 1, 2001 is hereby set aside and the case is remanded to the Office for proceedings consistent with this opinion.

Dated, Washington, DC
May 2, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member