

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of MARY BETH ROMMELFANGER and U.S. POSTAL SERVICE,  
POST OFFICE, Omaha, NE

*Docket No. 02-1414; Submitted on the Record;  
Issued October 8, 2002*

---

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
COLLEEN DUFFY KIKO

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant's employment-related disability had ceased.

The Office accepted that appellant sustained a sacroiliac syndrome causally related to an April 9, 1997 employment incident. She, a 40-year-old mailhandler at the time of the employment incident, returned to work in a limited-duty position.

By decision dated February 29, 2000, the Office determined that appellant could return to her regular duties as a mailhandler. In a decision dated March 14, 2001, an Office hearing representative set aside the February 29, 2000 decision. The hearing representative found that a conflict in the medical evidence existed as to whether appellant's employment-related condition permitted her to return to her regular duties. The case was remanded for resolution of the conflict.

In a decision dated August 29, 2001, the Office determined that appellant's employment-related disability had ceased. The Office noted that appellant remained entitled to medical benefits. By decision dated February 8, 2002, an Office hearing representative affirmed the August 29, 2001 decision.

The Board finds that the Office properly determined that a continuing employment-related disability for her date-of-injury position had ceased by August 29, 2001.

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 his 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>1</sup>

---

<sup>1</sup> *Patricia A. Keller*, 45 ECAB 278 (1993).

In this case, the Office determined that although appellant remained entitled to medical benefits, her employment-related condition no longer disabled her for her date-of-injury position as of August 29, 2001. With respect to an employment-related disability, the hearing representative found a conflict in the medical evidence between an attending physician, Dr. Mark Milone, an internist and Dr. Lonnie Mercier, an orthopedic surgeon serving as a second opinion referral physician. The Office referred appellant, medical records and a statement of accepted facts, to Dr. Michael Morrison, a Board-certified orthopedic surgeon. In a report dated June 25, 2001, Dr. Morrison provided a history and results on examination. He stated that a physical examination did not reveal any evidence of sacroiliac joint irritation. Dr. Morrison indicated that appellant reported pain in the left buttock area at times, although not at the present time. He stated that he found no objective findings of any abnormality and he concluded that there was no objective evidence restricting appellant from performing the mailhandler position.

The Board finds that Dr. Morrison's report represents the weight of the evidence on this issue. He provided a reasoned opinion, based on an accurate background, indicating that appellant's employment injury did not restrict her from performing the date-of-injury position. It is well established that when a case is referred to an impartial medical specialist for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.<sup>2</sup> Accordingly, the Board finds that the Office met its burden of proof in this case.

The decisions of the Office of Workers' Compensation Programs dated February 8, 2002 and August 29, 2001 are affirmed.

Dated, Washington, DC  
October 8, 2002

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

Colleen Duffy Kiko  
Member

---

<sup>2</sup> *Harrison Combs, Jr.*, 45 ECAB 716, 727 (1994).