

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOYCE A. ANTHONY and U.S. POSTAL SERVICE,
POST OFFICE, Spokane, WA

*Docket No. 02-874; Submitted on the Record;
Issued March 7, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a left shoulder condition or neurological condition of the left upper extremity in the performance of duty on July 9, 1998.

On July 9, 1998 appellant, then a 42-year-old distribution clerk, sustained a left hand crush injury, left wrist abrasion, right hand laceration and right hand abrasion when her hands were caught in a conveyor belt while clearing a mail jam. The Office of Workers' Compensation Programs also accepted that appellant sustained an anxiety reaction, major depression and post-traumatic stress syndrome due to the July 9, 1998 injury. Appellant stopped work on July 9, 1998 and returned to limited-duty work on July 20, 1998; she stopped work on July 21, 1998 and has not worked since that date. Appellant later claimed that she sustained a left shoulder condition and a neurological condition of the left upper extremity due to her July 9, 1998 employment injury.¹ By decision dated February 4, 2002, the Office denied appellant's claim on the grounds that the medical evidence did not show she sustained a left shoulder condition or a neurological condition of the left upper extremity due to her July 9, 1998 employment injury. The Office based its determination on the opinion of Dr. Alfred Blue, a Board-certified orthopedic surgeon who served as an impartial medical specialist.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a left shoulder condition or neurological condition of the left upper extremity in the performance of duty on July 9, 1998.

In the present case, the Office determined that there was a conflict in the medical opinion between appellant's attending physicians and Dr. Harry Reese, a Board-certified orthopedic surgeon who served as an Office referral physician, regarding whether she sustained a left

¹ Appellant asserted that she sustained several conditions, including traumatic left carpal tunnel syndrome and left rotator cuff damage.

shoulder condition or a neurological condition of the left upper extremity due to her July 9, 1998 employment injury.

In a report dated December 6, 1999, Dr. Donald A. Coleman, an attending Board-certified orthopedic surgeon, reported his findings on examination and determined that appellant had median and ulnar nerve compression secondary to the July 9, 1998 employment injury. Dr. Coleman recommended surgery and stated, “Again, I feel that the injuries as she relates to me are time associated with the conveyor belt injury.”² In reports dated in late 1999 and early 2000, Dr. Patrick E. Greis, an attending Board-certified orthopedic surgeon, noted that appellant’s left shoulder problems were related to the July 9, 1998 employment injury. In contrast, Dr. Reese indicated in his June 29, 2000 report that appellant had a left rotator cuff tear which had not been shown to be related to the July 9, 1998 employment injury. Dr. Reese noted that appellant exhibited a pattern of numbness in her left hand which could not be explained on the basis of median nerve compression or Guyon’s canal compression. He stated that diagnostic testing did not show left carpal tunnel syndrome and indicated that surgery was not recommended.

In order to resolve the conflict, the Office properly referred appellant, pursuant to section 8123(a) of the Federal Employees’ Compensation Act, to Dr. Blue, a Board-certified orthopedic surgeon, for an impartial medical examination and an opinion regarding whether she sustained a left shoulder condition or neurological condition of the left upper extremity due to her July 9, 1998 employment injury.³ In situations where there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.⁴

The Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized opinion of Dr. Blue, the impartial medical specialist selected to resolve the conflict in the medical opinion. The February 13, 2001 report of Dr. Blue establishes that appellant did not sustain a left shoulder condition or neurological condition of the left upper extremity due to her July 9, 1998 employment injury.

In his report, Dr. Blue reported appellant’s medical history and reported the findings on examination.⁵ He diagnosed left rotator cuff tear by history and post left median nerve release in the proximal forearm with transfer of the ulnar superficialis nerve. Dr. Blue indicated that the shoulder pain appellant exhibited on examination exceeded the usual clinical findings of a rotator

² In a report dated August 18, 1999, Dr. Coleman diagnosed left carpal tunnel syndrome and left median nerve compression.

³ Section 8123(a) of the Act provides in pertinent part: “If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.” 5 U.S.C. § 8123(a).

⁴ *Jack R. Smith*, 41 ECAB 691, 701 (1990); *James P. Roberts*, 31 ECAB 1010, 1021 (1980).

⁵ Dr. Blue noted that on November 21, 2001 appellant underwent a left median nerve release in the proximal forearm with transfer of the ulnar superficialis nerve.

cuff tear. He noted that the additional conditions claimed by appellant manifested themselves many months after the July 9, 1998 employment injury and therefore would not be related to that injury. Dr. Blue stated, "I cannot explain a relationship of a carpal tunnel, cubital tunnel, proximal forearm median nerve and rotator cuff injury to an injury that occurred just to the hands, and for which the patient placed herself in bed for some one to one-and-a-half years. There is no history of trauma in the record or by her history that would indicate that the conditions for which she was operated on would have any relationship to that injury."

The Board has carefully reviewed the opinion of Dr. Blue and notes that it has reliability, probative value and convincing quality with respect to its conclusions regarding the relevant issue of the present case. Dr. Blue's opinion is based on a proper factual and medical history in that he had the benefit of an accurate and up-to-date statement of accepted facts, provided a thorough factual and medical history and accurately summarized the relevant medical evidence.⁶ Dr. Blue provided medical rationale for his opinion by explaining that the type of injury sustained by appellant on July 9, 1998 would not have been competent to cause the left shoulder condition or neurological condition of the left upper extremity claimed by appellant. He also explained that appellant's medical history since July 9, 1998 did not support a finding of causal relationship.

The February 4, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
March 7, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ See *Melvina Jackson*, 38 ECAB 443, 449-50 (1987); *Naomi Lilly*, 10 ECAB 560, 573 (1957).