

**United States Department of Labor
Employees' Compensation Appeals Board**

MARIE L. SQUIRE, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Washington, DC, Employer**

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**Docket No. 04-1473
Issued: October 27, 2004**

Appearances:
Marie L. Squire, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On May 14, 2004 appellant filed a timely appeal of an Office of Workers' Compensation Programs' decision dated April 23, 2004, which terminated her compensation for wage-loss and medical benefits. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this termination case.¹

ISSUE

The issue on appeal is whether the Office met its burden of proof in terminating appellant's compensation for wage-loss and medical benefits effective April 23, 2004.

¹ The record contains a February 28, 2003 decision of the Office pertaining to an overpayment of compensation. As this decision was issued over a year prior to the date appellant filed her appeal on May 14, 2004, the Board does not have jurisdiction to review this decision. 20 C.F.R. §§ 501.2(c) and 501.3.

FACTUAL HISTORY

On December 7, 2000 appellant, then a 45-year-old mail handler, filed an occupational disease claim alleging that she developed carpal tunnel syndrome beginning November 24, 2000 due to performing repetitive movements at work. By letter dated December 27, 2000, the Office accepted the claim for right carpal tunnel syndrome and release. The Office received no other information pertaining to appellant's claim until June 7, 2002 when a May 25, 2002 medical report from Dr. Guillermo E. Sanchez, an orthopedic surgeon, was received requesting authorization for surgical release. Following further development, the Office paid appellant for temporary total disability beginning May 11, 2002 through January 25, 2003 and placed her on the periodic rolls effective December 29, 2002.² The Office also authorized transection of the carpal ligament on the right wrist and tenolysis of the flexor tendon of the third digit, which appellant underwent on May 20, 2003. Appellant returned to limited duty with a 25-pound lifting restriction on December 17, 2003.

In July 2003, Dr. Jay Gonchigar,³ Dr. Majid Ghauri, a Board-certified anesthesiologist and Dr. Sandeep Shcerlekar⁴ diagnosed appellant with having an element of right hand reflex sympathetic dystrophy (RSD).

In October 6 and November 6, 2003 reports, Dr. Mahendra Gunapooti⁵ noted that appellant was status post right carpal tunnel release and that she had chronic pain over the right wrist region of unclear etiology. On November 18, 2003 Dr. Gunapooti released appellant to work with a 25-pound lifting restriction.

In response to an Office inquiry about appellant's ability to return to her date-of-injury position with the employing establishment, Dr. Sanchez, in a January 5, 2004 report, advised that he had not seen appellant for her right hand problems since July 3, 2003. He indicated that appellant was under the care of an associate, Dr. Gunapooti.

The Office referred appellant to Dr. Harvinder S. Pabla, a Board-certified orthopedic surgeon, for a second opinion examination. In a February 12, 2004 report, Dr. Pabla reviewed appellant's employment history and treatment for her accepted right carpal tunnel syndrome, current complaint of persistent pain in the right hand and listed findings on physical examination. He stated that the right hand examination revealed normal skin color, texture and hair growth. There was no atrophy of the thenar, hypthenar or intrinsic muscles. There was a nicely healed postoperative scar volar surface, right wrist. Tinel's sign was negative. Wrist range of motion: dorsiflexion 70 degrees, volar flexion 60 degrees, pronation and supination are equal and symmetrical. There was no significant weakness of the grip and pinch strength. The flexor digitorum profundus and superficialis functions were intact. Two point discrimination was

² By decision dated February 28, 2003, the Office found that an overpayment of \$26,283.17 occurred for which appellant was not at fault. As previously noted, the Board does not have jurisdiction to review this decision. *Id.*

³ Dr. Gonchigar's credentials are not of record.

⁴ Dr. Shcerlekar's credentials are not of record.

⁵ Dr. Gunapooti's credentials are not of record.

normal. Dr. Pabla indicated that appellant had reached the point of maximal medical improvement and that the minor residuals of the carpal tunnel syndrome had significantly improved as she had excellent wrist range of motion and good grip and pinch strength. Dr. Pabla opined that carpal tunnel syndrome had resolved and that appellant was able to work and perform the duties of her normal occupation, mail handler, with modification of workplace activity without any limitation or restriction. He opined that appellant's ongoing complaints were due to diabetes and diabetes associated complications (diabetic mononeuritis) as there is no evidence of atrophy of the thenar, hypothenar or intrinsic muscles, she has full wrist range of motion with good grip and pinch strength, and no evidence of complex regional pain syndrome. Dr. Pabla noted that appellant should seek appropriate medical attention for her fluctuating, unstable diabetes. He further recommended a short course of an anti-inflammatory agent and a home exercise program to strengthen the intrinsic muscles of the hand.

On March 22, 2004 the Office issued a notice of a proposed termination of compensation benefits claim on the grounds that appellant's right carpal tunnel syndrome had ceased and there were no residuals due to her accepted work-related condition. The Office accorded the weight of the medical evidence to Dr. Pabla, the second opinion examiner. In a March 30, 2004 letter, appellant advised that she disagreed with the proposed termination. A February 2, 2004 chest x-ray noting a clinical history of acute pneumonia⁶ was submitted along with evidence previously of record.

In a decision dated April 23, 2004, the Office terminated appellant's compensation benefits on the grounds that the weight of the medical evidence, as represented by the opinion of Dr. Pabla, established that her injury-related residuals had ceased. The termination was effective April 23, 2004.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.⁷ After it has determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁸ Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁹ To terminate authorization for medical treatment, the Office must establish that appellant no longer

⁶ In an April 9, 2004 letter, the Office determined that the February 2, 2004 medical diagnostic was not work related and that the bill for such service should be submitted to the appropriate insurance company.

⁷ *Gloria J. Godfrey*, 52 ECAB 486 (2001).

⁸ *Id.*

⁹ *James F. Weikel*, 54 ECAB ____ (Docket No. 01-1661, issued June 30, 2003); *Furman G. Peake*, 41 ECAB 361, 364 (1990).

has residuals of an employment-related condition which would require further medical treatment.¹⁰

In assessing medical evidence, the weight of such evidence is determined by its reliability, its probative value and its convincing quality. The opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion are facts which determine the weight to be given to each individual report.¹¹

ANALYSIS

On appeal, appellant contends that the Office should not have terminated her compensation as she was still suffering from the work-related condition, she could not perform her position without some type of restriction, and she was still under Dr. Gunapooti's care. She expressed her disagreement with Dr. Pabla's opinion and questioned the accuracy of his conclusions.

The Office accepted that appellant sustained a right carpal tunnel syndrome, authorized surgery for transection of the carpal ligament on the right wrist and tenolysis of the flexor tendon of the third digit and paid appropriate medical benefits and compensation for disability. The Office subsequently referred her to Dr. Pabla for a second opinion evaluation. He examined appellant on February 12, 2004, providing an accurate history of injury and results of physical examination. Dr. Pabla advised that appellant had reached the point of maximum medical improvement and that the minor residuals of the carpal tunnel syndrome had significantly improved as she had excellent wrist range of motion and good grip and pinch strength. Based upon the physical examination, a review of the medical evidence and objective studies in appellant's record, a history of the employment injury and the statement of accepted facts, Dr. Pabla opined that appellant had recovered from her employment injury. He opined that she was able to perform the duties of her normal occupation, mail handler, with modification of workplace activity, without any limitation or restriction. Dr. Pabla reiterated that appellant's employment-related carpal tunnel syndrome had resolved and that appellant's ongoing complaints and symptoms were due to diabetes and diabetes associated complications (diabetic mononeuritis). He supported his conclusion by noting that there was no evidence of atrophy of the thenar, hypothenar or intrinsic muscles; appellant had full wrist range of motion with good grip and pinch strength; and there was no evidence of complex regional pain syndrome. Although appellant questioned Dr. Pabla's findings, noting that the doctor did not indicate that she was off work, at the time of examination, due to pneumonia, this is not relevant to whether she has continuing residuals of her accepted employment conditions.

There is no other contemporaneous medical evidence indicating that appellant has residuals of her employment-related condition. Although there is some medical evidence from July 2003 diagnosing RSD, no physician provided any medical rationale regarding whether this

¹⁰ *Donald T. Pippin*, 54 ECAB ___ (Docket No. 03-205, issued June 19, 2003).

¹¹ *Jean Culliton*, 47 ECAB 728 (1996).

condition was related to or aggravated by her November 24, 2000 work injury.¹² Thus, these reports are of diminished probative value as they failed to explain if and why appellant was experiencing residuals of her work-related injury.¹³

The Board finds that the Office properly relied on Dr. Pabla's detailed and well-reasoned report to conclude that appellant had no continuing disability or medical residuals as a result of her accepted employment injury. Therefore, the Office met its burden of proof to terminate appellant's compensation benefits.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits effective April 23, 2004.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 23, 2004 is affirmed.

Issued: October 27, 2004
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

¹² Appellant would have the burden of proof in establishing that any condition not accepted by the Office is employment related. *See* 20 C.F.R. § 10.115.

¹³ *Thaddeus J. Spevack*, 53 ECAB ___ (Docket No. 00-1180, issued April 3, 2002). (To be of probative value, the physician must provide rationale for the opinion reached. Where no such rationale is present, the medical opinion is of diminished probative value).