United States Department of Labor
Employees' Compensation Appeals Board

MARIA A. DILEMMO, Appellant	)	
and	)	**Docket No. 06-909**
	)	**Issued: July 7, 2006**
DEPARTMENT OF THE NAVY, FOUNDRY & PROPELLER CENTER, Philadelphia, PA, Employer	)	

Appearances:
Thomas R. Uliase, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 13, 2006 appellant filed a timely appeal of a January 31, 2006 decision of an Office of Workers' Compensation Programs' hearing representative, affirming a January 12, 2005 decision terminating compensation effective May 11, 2004. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether the Office met its burden of proof to terminate wage-loss compensation effective May 11, 2004.

FACTUAL HISTORY

On January 26, 2004 appellant, then a 49-year-old management analyst, filed a traumatic injury claim (Form CA-1) alleging that she sustained injuries when she slipped and fell in the parking area of her work site. The reverse of the claim form indicated that appellant stopped working on February 4, 2004. Appellant began receiving treatment on February 9, 2004 from

Dr. John Taras, an orthopedic surgeon, who diagnosed a bilateral transverse carpal ligament strain. The Office accepted the claim for bilateral wrist sprain.

Appellant continued to submit reports from Dr. Taras. In a report dated April 12, 2004, he stated that appellant was off work "for other medical reasons not related to her hand." Dr. Taras provided results on examination, noting tenderness on the right carpometacarpal (CMC) area, with no tenderness of the left hand. In a form report (CA-20) dated April 19, 2004, Dr. Taras noted significant improvement and indicated that appellant could work with no lifting over 10 pounds.

In a report dated May 10, 2004, Dr. Taras provided results on examination and diagnosed right thumb CMC sprain and left wrist flexor tenosynovitis. Dr. Taras further stated that appellant "is currently not working for reasons other that her wrist and thumb pain. From our point of view, she may return to work as tolerated. She can follow-up with us on an [as needed] basis if any new problems ensue." In a CA-20 dated May 10, 2004, Dr. Taras indicated that appellant could return to regular work on May 11, 2004.

The record contains a CA-20 dated May 11, 200 from Dr. Kenneth Winocur, an osteopath, indicating that appellant was totally disabled. Dr. Winocur diagnosed severe right wrist pain, nerve damage and checked a box that the condition was employment related. In a report dated May 26, 2004, Dr. Steven Valentino, an osteopath, provided a history and results on examination. He diagnosed right wrist tenosynovitis with de Quervain's syndrome, severe aggravation of CMC degenerative joint disease, right thumb and sensory nerve neuropathy with median neuritis. Dr. Valentino opined that appellant's disability was "ongoing. Appellant denies any preexistent symptomology about the right wrist." In a report dated July 28, 2004, Dr. Valentino provided results on examination diagnoses included tenosynovitis, aggravation of degenerative joint disease of the first CMC right thumb, radial tunnel and carpal tunnel syndrome. He stated that appellant was disabled from employment. Dr. Valentino submitted continuing CA-20 form reports indicating that appellant was totally disabled.

By letter dated November 15, 2004, the Office proposed to terminate appellant's compensation for wage loss as of May 11, 2004. The Office found that attending physician Dr. Taras had released appellant to regular work on May 10, 2004. By decision dated January 12, 2005, the Office terminated compensation for wage loss effective May 11, 2004.

Appellant requested a hearing before an Office hearing representative, which was held on November 16, 2005. In a report dated February 14, 2005, Dr. Valentino indicated that appellant was applying for disability retirement. He diagnosed aggravation of arthritic changes of he first CMC joint, tenosynovitis of the right wrist with radial sensory nerve neuroma and neuritis. He opined that appellant was restricted from use of the right upper extremity and was disabled for work. In a report dated July 19, 2005, Dr. Valentino found that appellant was disabled and stated, "ongoing residuals, disability and need for treatment as well as the above-mentioned diagnoses are directly related to the January 26, 2004 work injury because and effect relationship. There is denial of any preexistant symptoms. As such, ongoing symptomology are solely and wholly related to the January 26, 2004 work injury."

By decision dated January 31, 2006, the hearing representative affirmed the January 12, 2005 decision.

LEGAL PRECEDENT

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.[1] The Office may not terminate wage-loss compensation without establishing that disability ceased or that it was no longer related to the employment.[2]

ANALYSIS

The accepted condition in this case was a bilateral wrist sprain sustained on January 26, 2004, when appellant slipped and fell in the employing establishment parking lot. The attending physician, Dr. Taras, indicated in his May 10, 2004 report that appellant had minimal physical findings and he found that she could return to regular work as of May 11, 2004. Appellant's job was a management analyst, which the employing establishment indicated in a March 12, 2004 letter was a sedentary job. The evidence from Dr. Taras constitutes probative medical evidence that the accepted condition had resolved and appellant was able to return to work effective May 11, 2004. On appeal, appellant's representative refers to a "plethora of communication" between the employing establishment and the Office concerning appellant's injury, but the record does not contain any evidence of any excessive or inappropriate communication. The weight of the medical evidence supports a finding that disability from the accepted bilateral wrist sprain had resolved by May 11, 2004.

As noted above, the accepted condition was a bilateral wrist sprain. Although appellant submitted a number of reports from Dr. Vaentino, they contained additional diagnoses that included flexor tenosynovitis, aggravation of degenerative joint disease of the first CMC right thumb, radial tunnel and carpal tunnel syndrome, radial sensory nerve neuroma and neuritis. Before any resulting disability is compensable, the evidence must establish that the diagnosed conditions are employment related. Appellant has the burden to establish that a specific condition is causally related to the employment injury.[3] In order to establish causal relationship, a physician's opinion must be based on a complete factual and medical background,[4] and must be supported by medical rationale.[5]

Dr. Valentino did not provide a reasoned opinion on causal relationship between any diagnosed condition and the employment injury. His initial reports referred generally to "ongoing disability" without providing a reasoned medical opinion. The CA-20 reports, including the May 11, 2004 from Dr. Winocur, are of little probative value on the issue of causal

[1] *Jorge E. Stotmayor*, 52 ECAB 105, 106 (2000).

[2] *Mary A. Lowe*, 52 ECAB 223, 224 (2001).

[3] *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979)

[5] *Gary L. Fowler*, 45 ECAB 365 (1994).

relationship without additional explanation.[6] The Board finds that the weight of the evidence at the time of the January 12, 2005 termination decision was represented by Dr. Taras, who found that appellant could return to work as of May 11, 2004. Appellant did not establish any additional conditions as employment related and therefore the Office met its burden of proof to terminate compensation for wage loss as of May 11, 2004.

After termination or modification of benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to appellant.[7] She continued to submit reports from Dr. Valentino without a well-reasoned medical opinion. In the July 19, 2005 report, Dr. Valentino opined that appellant's condition and disability were related to the employment injury, noting a lack of preexisting symptoms. The Board notes that the lack of symptoms prior to the employment incident does not itself provide rationale in support of a causal relationship between a condition and employment.[8] The Board finds that Dr. Valentino did not provide probative medical evidence establishing an employment-related condition or disability after May 11, 2004.

CONCLUSION

The Office met is burden to proof to terminate compensation for wage loss effective May 11, 2004.

[6] *See Barbara J. Williams*, 40 ECAB 649, 656 (1989) (the checking of a box is of little probative value on causal relationship without additional explanation).

[7] *Talmadge Miller*, 47 ECAB 673, 679 (1996); *see also George Servetas*, 43 ECAB 424 (1992).

[8] *See, e.g., Walter J. Neumann, Sr.*, 32 ECAB 69, 72 (1980).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 31, 2006 is affirmed.

Issued: July 7, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board