

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

K.E., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Columbus, OH, Employer**

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**Docket No. 08-1461
Issued: December 17, 2008**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 23, 2008 appellant, through her attorney, filed a timely appeal from the August 27, 2007 and April 3, 2008 merit decisions of the Office of Workers' Compensation Programs, which terminated her compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

ISSUES

The issues are: (1) whether the Office properly terminated appellant's compensation for the accepted medical conditions; and if so, (2) whether appellant has met her burden of establishing continuing residuals of the accepted employment injury.

FACTUAL HISTORY

On December 7, 1999 appellant, then a 39-year-old casual clerk, sustained a traumatic injury in the performance of duty when her left hand was caught between two pie carts. The Office accepted her claim for left hand contusion, left wrist sprain and reflex sympathetic

dystrophy (RSD) of the left hand and wrist. Appellant received compensation for temporary total disability on the periodic rolls.

In 2007 the Office referred appellant, together with the medical record and a statement of accepted facts, to Dr. Gerald S. Steiman, a Board-certified neurologist, for a second opinion evaluation. On May 12, 2007 Dr. Steiman related appellant's history of injury and described her date-of-injury job activities. He reported her current complaints and reviewed her medical record. After describing his findings on examination, Dr. Steiman discussed whether appellant currently suffered from the accepted RSD. Based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001), he identified eleven objective criteria for diagnosing RSD and divided the criteria into four categories: vasomotor criteria, sudomotor criteria, trophic criteria and radiographic criteria. To satisfy the A.M.A., *Guides'* definition of RSD, he explained, an individual must concurrently exhibit eight or more of the eleven objective criteria.

Dr. Steiman reported that appellant did not exhibit a single characteristic of RSD. Appellant demonstrated no vasomotor, sudomotor, trophic or radiographic changes indicative of the diagnosis. Dr. Steinman reported that appellant's subjective complex was inconsistent with objective anatomical findings and could not be explained by the accepted medical conditions. He added that appellant's history, medical record, physical examination and pain assessment provided no credible evidence of a work-related condition. Appellant did not demonstrate evidence of a left hand contusion, a left wrist sprain or RSD. Dr. Steiman attached an article, "Understanding Complex Regional Pain Syndrome (Reflex Sympathetic Dystrophy)," which described the history of RSD as a formal diagnosis, the development of objective diagnostic criteria and treatment studies.

In a decision dated August 27, 2007, the Office terminated appellant's compensation effective August 31, 2007. It found that Dr. Steiman's opinion represented the weight of the medical evidence and established that the accepted medical conditions had resolved. The Office noted that medical forms and treatment notes from appellant's family practitioner, Dr. Chandre Gowda, were old, incomplete and provided no opinion on causal relationship or explanation of why appellant remained totally disabled for work.

Appellant requested a hearing before an Office hearing representative, which was held on February 12, 2008. She submitted an August 21, 2007 report from Dr. Nancy Renneker, a Board-certified physiatrist, who related appellant's history of injury, medical treatment, current complaints and findings on examination. Dr. Renneker then evaluated appellant under the A.M.A., *Guides* and found a 75 percent left upper extremity impairment due to chronic pain or RSD. Appellant also submitted a March 6, 2008 report from Dr. Gowda:

"I have been seeing this patient since December of 2005. Her approved diagnosis codes for BWC are 842.10 hand strain and 842.0 wrist strain. During the time I saw this patient the pain had spread up her arm to include her shoulder on the left side. Therefore, my opinion was that the arm and shoulder needed further evaluation for the condition of radiculopathy left arm. The patient still experiences chronic pain with this condition and I again recommend further testing and evaluation to find the cause of this condition and the patient would

benefit from a referral to an orthopedic physician and pain management physician.”

In a decision dated April 3, 2008, the Office hearing representative affirmed the termination of appellant’s compensation. The hearing representative found that the Office appropriately accorded the weight of the medical evidence to Dr. Steiman. The hearing representative also found that appellant failed to submit substantive medical evidence to establish that she had ongoing disabling residuals of her December 7, 1999 work injury.

LEGAL PRECEDENT -- ISSUE 1

The United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.¹ Once the Office accepts a claim, it has the burden of proof to justify termination or modification of compensation benefits.² After it has determined that an employee has disability causally related to 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.³

ANALYSIS -- ISSUE 1

The Office accepted that appellant sustained a left hand contusion, a left wrist sprain and RSD as a result of the December 7, 1999 incident at work. It therefore has the burden of proof to justify the termination of her compensation benefits.

The Office based its termination on the May 12, 2007 opinion of Dr. Steiman, a Board-certified neurologist. It provided Dr. Steiman with a statement of accepted facts and appellant’s medical record so he could base his opinion on a proper factual and medical history. Dr. Steiman examined appellant and offered a well-reasoned opinion that she demonstrated no evidence of a left hand contusion, a left wrist sprain or RSD. He explained in detail that appellant exhibited not one of the eleven objective criteria of RSD, as stated in the A.M.A., *Guides*. Dr. Steiman buttressed his report by attaching a monograph on diagnosing RSD.

Dr. Steiman’s opinion is sound, logical and well reasoned. In the absence of a reasonably contemporaneous medical opinion to the contrary, his May 12, 2007 report stands as the weight of the medical opinion evidence. The Board therefore finds that the Office met its burden of proof to terminate compensation for appellant’s December 7, 1999 employment injury. The Board will affirm the Office’s August 27, 2007 decision.

¹ 5 U.S.C. § 8102(a).

² *Harold S. McGough*, 36 ECAB 332 (1984).

³ *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

LEGAL PRECEDENT -- ISSUE 2

Where the Office meets its burden of proof to justify the termination of compensation benefits, the burden is on the claimant to establish that any subsequent disability is causally related to the accepted employment injury.⁴ The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between her current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury, and must explain from a medical perspective how the current condition is related to the injury.⁵

ANALYSIS -- ISSUE 2

The Office having met its burden of proof to justify the termination of compensation, the burden of proof switched to appellant to establish that any subsequent disability was causally related to the December 7, 1999 employment injury. Following its August 27, 2007 termination decision, appellant submitted an August 21, 2007 report from Dr. Renneker, a Board-certified physiatrist. Although Dr. Renneker found a 75 percent permanent impairment of appellant's left upper extremity due to chronic pain or RSD, she did not adequately explain what current findings supported a diagnosis of RSD. She did not address or take issue with Dr. Steiman's report, nor did she explain how appellant met the objective criteria for a formal diagnosis of RSD. Because Dr. Renneker did not provide a well-reasoned medical opinion to support continuing residuals of the December 7, 1999 employment injury, the Board finds that her August 21, 2007 report is of diminished probative value on the issue.

The March 6, 2008 report from Dr. Gowda, appellant's family practitioner, is also of little probative value. Dr. Gowda simply explained that appellant needed further evaluation for the condition of left arm radiculopathy and to explain the cause of her chronic pain. He did not diagnose RSD or explain how appellant continued to suffer residuals of the December 7, 1999 employment injury.

Because appellant has submitted no rationalized medical opinion to support that she continues to suffer residuals causally related to the December 7, 1999 incident at work, the Board finds that she has not met her burden of proof. The Board will therefore affirm the Office hearing representative's April 3, 2008 decision affirming the termination of compensation for the accepted medical conditions.

⁴ *Wentworth M. Murray*, 7 ECAB 570 (1955) (after a termination of compensation payments, warranted on the basis of the medical evidence, the burden shifts to the claimant to show by the weight of the reliable, probative and substantial evidence that, for the period for which he claims compensation, he had a disability causally related to the employment resulting in a loss of wage-earning capacity); *Maurice E. King*, 6 ECAB 35 (1953).

⁵ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

CONCLUSION

The Board finds that the Office properly terminated appellant's compensation. The weight of medical opinion evidence establishes that she no longer suffers from the accepted medical conditions. The Board also finds that appellant did not meet her burden to establish continuing residuals or disability causally related to the December 7, 1999 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the April 3, 2008 and August 27, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 17, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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