

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUANITA B. HAZLEY and U.S. POSTAL SERVICE,
POST OFFICE, Hamilton, OH

*Docket No. 98-1207; Submitted on the Record;
Issued November 26, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issues are: (1) whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation effective January 2, 1998; and (2) whether appellant met her burden of proof to establish that she had any disability after January 2, 1998 causally related to her employment injuries.

On July 31, 1975 appellant, then a 29-year-old clerk, sustained an employment-related aggravation of degenerative lumbar discs. She returned to limited duty for four hours per day on August 20, 1984, gradually increasing to eight hours per day.¹ On October 19, 1995 appellant sustained an employment-related injury that was accepted by the Office as low back strain, resolved February 19, 1996.² She returned to work on January 22, 1996 and sustained a recurrence of disability for the period August 15 to 30, 1996, for which she received appropriate compensation. Appellant again sustained a recurrence of disability on February 24, 1997 and was again placed on the compensation rolls. She has not worked since that time.

The Office continued to develop the claim and on August 18, 1997 referred appellant to Dr. Richard T. Sheridan, a Board-certified orthopedic surgeon, for a second-opinion evaluation. Finding that a conflict in the medical opinions existed between Drs. Sheridan and Kaushal K. Bhardwaj, appellant's treating internist, on October 14, 1997 the Office referred her to Dr. Alan R. Kightlinger, a Board-certified orthopedic surgeon, to resolve the conflict.³ By letter dated November 25, 1997, the Office informed appellant that it proposed to terminate her compensation, based on the opinions of Drs. Sheridan and Kightlinger. Appellant disagreed with

¹ Appellant's limited-duty job description indicates that she performed normal sedentary secretarial duties including typing and answering the telephone.

² The July 31, 1975 and October 19, 1995 injuries were initially adjudicated by the Office under separate file numbers but were doubled under file number A9-164203 on November 26, 1997.

³ Both Dr. Sheridan and Dr. Kightlinger were provided with the medical record and a statement of accepted facts.

the proposed termination but submitted no additional medical evidence. By decision dated December 30, 1997, the Office terminated her benefits, effective January 2, 1998, on the grounds that the work-related conditions had ceased. Appellant timely requested reconsideration and submitted additional medical evidence. In a February 24, 1998 decision, the Office denied modification of its prior decision. The instant appeal follows.

The Board finds that the Office met its burden of proof to terminate appellant's compensation.

Once the Office accepts a claim it has the burden of justifying termination or modification of compensation. After it has determined that an employee has disability causally related to his or her employment, the Office may not terminate compensation without establishing that the disability has ceased or that it was no longer related to the employment.⁴ Furthermore, in situations where there are 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 on a proper factual background, must be given special weight.⁵

The relevant medical evidence in this case includes a July 15, 1997 report from Dr. Bhardwaj, appellant's treating internist, who advised that she could not work due to severe pain. He opined that her condition was causally related to the July 31, 1975 employment injury. In a report dated September 8, 1997, Dr. Sheridan diagnosed status post aggravation of degenerative vertebral lumbar disease and advised that appellant had no positive objective findings on examination and did not continue to suffer residuals from the employment injury, concluding that she was medically capable of performing her regular duties as a mail clerk. In an attached work capacity evaluation, he advised that she could work eight hours per day without restrictions. In a comprehensive report dated November 3, 1997, Dr. Kightlinger diagnosed degenerative disc disease and degenerative arthritis at L4-5 and L5-S1. While he stated that appellant could only work four hours per day at a sedentary position, he too advised that she no longer suffered from residuals of an employment injury.

Initially, the Board notes that as Dr. Bhardwaj is not a specialist in the relevant field, his opinion is entitled to less weight than those of Drs. Sheridan and Kightlinger. Dr. Bhardwaj's reports are thus insufficient to overcome the special weight accorded Dr. Kightlinger.⁶ The Board, therefore, finds that appellant had no employment-related disability on or after January 2, 1998 and the Office met its burden of proof to terminate her compensation benefits on that date.

The Board further finds that appellant failed to establish that she had an employment-related disability after January 2, 1998.

⁴ See *Patricia A. Keller*, 45 ECAB 278 (1993).

⁵ See *Kathryn Haggerty*, 45 ECAB 383 (1994); *Edward E. Wright*, 43 ECAB 702 (1992).

⁶ See *Harrison Combs, Jr.*, 45 ECAB 716 (1994).

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to her to establish that she had disability causally related to her accepted injury.⁷ To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.⁸ Causal relationship is a medical issue⁹ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰ Medical evidence of bridging symptoms between the current condition and the accepted injury must support a physician's conclusion of a causal relationship.¹¹

The evidence submitted by appellant subsequent to the December 30, 1997 Office decision terminating appellant's compensation includes reports dated December 10, 1997 in which Dr. Robert S. Heidt, a Board-certified orthopedic surgeon, advised that she had a chronic lumbar strain complicating degenerative arthritis and concluded:

“There is considerable emotional overlay in this case as well as obesity. [Appellant] at the present time is in no condition to work, however, I do not believe that she is totally disabled. She could get over this if she had the desire. It requires losing weight, doing exercises and correcting posture. It is difficult to know how much [appellant's] work has aggravated the condition but certainly it is a factor. It will be interesting to see how well she can overcome her problems which she must do on her own and I feel that she is able to do this.”

Dr. Heidt provided no rationale for his conclusory opinion that appellant's condition was aggravated by employment. The Office, therefore, properly determined that she was not entitled to compensation benefits after January 2, 1998.

The decisions of the Office of Workers' Compensation Programs dated February 24, 1998 and December 30, 1997 are hereby affirmed.

Dated, Washington, D.C.
November 26, 1999

⁷ See *George Servetas*, 43 ECAB 424 (1992).

⁸ See 20 C.F.R. § 10.110(a); *Kathryn Haggerty*, *supra* note 5.

⁹ *Mary J. Briggs*, 37 ECAB 578 (1986).

¹⁰ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ See *Leslie S. Pope*, 37 ECAB 798 (1986).

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member