

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIE MAE K. GOODWIN and VETERANS ADMINISTRATION,
DORN VETERANS ADMINISTRATION HOSPITAL, Columbia, S.C.

*Docket No. 96-810; Submitted on the Record;
Issued March 25, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant had any disability on or after February 18, 1993, causally related to her August 15, 1991 accepted right shoulder strain and low back strain conditions.

The Board finds that this case is not in posture for decision due to an unresolved conflict in medical opinion evidence.

The Federal Employees' Compensation Act, at 5 U.S.C. § 8123(a), in pertinent part, provides: "If there is a 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."

In the instant case, the Office of Workers' Compensation Programs referred appellant, a custodial worker, to Dr. Joseph D. Christian, Jr., a Board-certified orthopedic surgeon, with a statement of accepted facts and the complete case record, for a second opinion examination. However, neither a copy of the referral nor the statement of accepted facts is apparent in the present case record.

By report dated March 5, 1993, Dr. Christian noted that appellant had pain in both shoulders, her low back, neck, and right upper extremity and he stated that she developed carpal tunnel syndrome "of spontaneous onset, which in [his] opinion is not job related." No rationale for this conclusion was given. He noted that she also had chronic capsulitis of both shoulders "which is also unrelated to any work activity, as capsulitis of the shoulders is a condition of a normal population and is not specifically related to any type of job activity." No further explanation or supporting rationale was provided. Dr. Christian opined that appellant was capable of returning to work doing clean-up work activity, limited only by the amount of pain she was experiencing. No discussion of if and/or when appellant's accepted right shoulder strain and low back strain conditions resolved was included.

By report dated March 23, 1993, Dr. Barry D. Oliver, appellant's treating Board-certified orthopedic surgeon, noted that appellant had impingement syndrome of her right shoulder and indicated by checking "yes" that he believed appellant's condition was caused or aggravated by her employment. He indicated that she remained totally disabled through April 30, 1993.

The Office requested clarification from Dr. Christian, and by response dated July 12, 1993 he stated that he felt appellant's carpal tunnel syndrome was of spontaneous onset and not job related because the three injuries she sustained were not accepted causes for "chronic carpal tunnel syndrome requiring surgical release." However no further discussion was provided. He opined that appellant's "chronic capsulitis of both shoulders" was not caused by her accepted injuries, but he did not explain why. Dr. Christian stated that the only injury that may have some bearing on appellant's capsulitis of the right shoulder was the accepted August 15, 1991 right shoulder strain injury when she lifted a torpedo trash can cover and experienced shoulder pain. He then opined that this was not a cause of chronic capsulitis of the shoulder, but he did not offer any rationale for this statement, especially in light of his earlier statement that the accepted right shoulder strain injury might have some bearing on her right shoulder capsulitis. Dr. Christian stated that appellant's diagnosed impingement syndrome with slight synovial thickening of the shoulder and spurring along the acromion was not caused by any accepted injury, but he provided no medical reasoning to support this conclusion. He opined that appellant's accepted right wrist, arm, shoulder, and low back strains had resolved, but he did not explain why or give any date of their resolution. Dr. Christian opined that at that time appellant had no injury-related conditions, and that her work activity would be restricted only based upon the amount of her pain, but he provided no further discussion or rationale.

By report dated August 31, 1993, Dr. Oliver stated that no one could definitely say that appellant's carpal tunnel syndrome was not job related. He stated that there was no physical way to document that this was or was not caused by her job, and he speculated that, if appellant did not receive any specific traumatic event, then the trauma of excessive use of her hands could probably lead or predispose her to carpal tunnel syndrome. Dr. Oliver disagreed with Dr. Christian's conclusions. He further stated that appellant was treated for subacromion bursitis which eventually led to the impingement syndrome, which one could develop if one was performing a lot of overhead maneuvers, such as cleaning on the job. He opined that appellant must have arrived at her impingement syndrome and subacromion bursitis by doing overhead work or cleaning, probably on the job. Dr. Oliver stated that he saw no particular way to prove or to disprove whether either one of appellant's two injuries were job related. He stated that appellant had problems that were related to an overuse type syndrome and therefore if that overuse occurred on the job then probably the job was the etiology for these complaints. Dr. Oliver did not discuss whether appellant remained disabled by her accepted low back and right shoulder strain conditions.

The Board notes that while Dr. Oliver supports continued job-related disability, he does not discuss appellant's accepted employment-related right shoulder and low back muscle strain conditions, and instead speculates about the causal relation of the additional conditions of carpal tunnel syndrome, subacromion bursitis, and a shoulder impingement syndrome, to factors of appellant's employment.

The Board notes that Dr. Christian negates continued job-related disability, but provides no rationale for his conclusions, nor gives any date of accepted condition resolution. Dr. Christian fails to discuss appellant's accepted conditions other than to state in conclusory fashion that they have resolved, and instead makes unrationalized pronouncements regarding two unaccepted conditions of carpal tunnel syndrome and capsulitis of the shoulders.

The Board notes that Dr. Christian is unrationalized and conclusory in his opinions, and that Dr. Oliver is speculative and vague in his, and that they disagree as to whether appellant has additional work-related medical problems. However, the Board also notes that these physicians disagree as to whether appellant remains disabled from her employment due to accepted work-related conditions, such that there is a conflict in medical opinion evidence requiring resolution by referral to an impartial medical specialist.

Therefore, the decision of the Office of Workers' Compensation Programs dated October 20, 1995 is hereby set aside and the case is remanded for further development in accordance with this decision and order of the Board.

Dated, Washington, D.C.
March 25, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member