

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA McKERCHIE and DEPARTMENT OF THE ARMY,
SAINT MARY'S FALL CANAL, Sault Ste. Marie, MI

*Docket No. 98-160; Submitted on the Record;
Issued July 26, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof in establishing that she was disabled on or after May 10, 1995 as a result of a work-related injury.

The Board has given careful consideration to the issue involved, the contentions of appellant on appeal and the entire case record. The Board finds that the August 14, 1997 decision of the hearing representative of the Office of Workers' Compensation Programs is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.

The August 14, 1997 decision of the Office of Workers' Compensation Programs is hereby affirmed.

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

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

May 11, 1999

MEMORANDUM

TO: THE PANEL

FROM: P Trayers

SUBJECT: McKERCHIE, 98-160

The draft recommends adoption of the hearing representative's decision dated August 14, 1997 which found that appellant had no disability after May 10, 1995, the day she stopped work, as a result of her work-related shoulder injury.

On December 5, 1994 appellant, a mail clerk, filed a claim for bursitis. (1)

In medical reports dated January 4 and September 26, 1996, Dr. Ross Hume, a second opinion physician and Board-certified in orthopedic surgery, stated that appellant had no orthopedic condition and that her complaints would have ceased upon cessation of work. The doctor noted findings on examination stating that appellant had full range of shoulder motion, no sign of tenderness and excellent upper shoulder strength. He further noted negative x-rays and ct scan taken on October 4, 1994. The doctor further noted that since appellant did not relate shoulder strain, he found that her current medical condition was not orthopedic in nature. (151-148, 182)

Since appellant stopped work on May 10, 1995 the Office hearing representative, based on Dr. Hume's reports, determined that appellant had no residuals after that date. The Office thereupon awarded appellant a work-related injury for shoulder injury¹ but denied medical benefits from May 10, 1995.

Appellant's burden was to provide rationalized medical opinion evidence establishing that her work-related injury caused disability after May 10, 1995. However in none of the medical reports did any of the doctors establish that she was disabled after that date.

Appellant's treating physician, Dr. Johnson, submitted no medical reports after May 10, 1995.

Dr. Charles J. Heubner, Board-certified in orthopedic surgery, in a May 1995 medical report, made no determination regarding causal relationship. (71)

Clinic notes did not address appellant's work related condition. (246-26)

Dr. Hume's reports, dated January 4 and September 26, 1996, stated that appellant had no orthopedic condition as a result of her work. (151-48, 182) Given the well-reasoned and

¹ The Office accepted appellant's condition essentially on the grounds that Dr. Hume found that she may have had shoulder strain but that since her strain would have been self limiting, it would have ended when she stopped work.

thorough quality of Dr. Hume's report, the Office hearing representative properly denied benefits after May 10, 1995.

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

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member