

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANN M. ANDERSON and DEPARTMENT OF DEFENSE,
DEFENSE SUPPLY CENTER, Richmond, VA

*Docket No. 98-1846; Submitted on the Record;
Issued February 11, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant established any disability commencing December 30, 1996 causally related to her November 5, 1996 accepted employment injury.

On November 5, 1996 appellant, then a 27-year-old office automation clerk, filed a notice of traumatic injury alleging that she injured her neck and back when she fell onto a concrete floor in the course of her federal employment.

On November 5, 1996 Dr. Allen Mask, a specialist in anesthesiology and internal medicine, diagnosed cervical neck strain, lumbosacral back strain and a coccyx contusion. He stated that appellant could return to work on November 11, 1996. On November 12, 1996 Dr. Mask indicated that appellant had a coccyx fracture, but stated that she could return to work on November 18, 1996.

On November 20, 1996 Dr. Tejpal S. Dhillon diagnosed acute cervical lumbosacral sprain, contusion of the sacrum and coccyx and questionable fracture. He indicated that appellant could not work for two weeks. Progress notes from his office dated November 20 and December 11, 1996, January 2, January 8, February 16 and March 26, 1997 indicated that appellant continued to suffer lumbosacral and cervical problems along with a contusion of the buttocks. On January 10, 1997 Dr. Dhillon diagnosed a cervical strain and an acute lumbar sprain and indicated that appellant was recovering well.

Appellant subsequently filed a claim for compensation on account of traumatic injury or occupational disease, Form CA-7, requesting compensation beginning December 30, 1996.

By decision dated April 21, 1997, the Office of Workers' Compensation Programs indicated that the claim was approved for lumbar and cervical strain and a fracture of the coccyx. The Office, however, found that the evidence failed to establish that the claimant was disabled for work beginning December 30, 1996. In an accompanying memorandum, the Office noted

that there was no medical evidence supporting total disability commencing December 30, 1996. The Office indicated that it advised appellant of the deficiency in the evidence on April 4, 1997.

A progress note from Dr. Dhillon's office dated April 16, 1997 indicated that appellant had a resistant lumbosacral sprain.

On May 29, 1997 Dr. Daniel J. Albright, a Board-certified orthopedic surgeon, performed a physical examination and diagnosed myofascial pain, low back strain/sprain and possible post-traumatic fibromyalgia. He indicated that he expected no long-term impairment. He further stated that appellant could perform light-duty work lifting under 20 pounds and that she could return to regular work in one month.

Kaiser Permanente progress notes dated September 24 and September 30, 1997 provided illegible diagnoses. A Kaiser Permanente progress note dated December 2, 1997 indicated that appellant had a probable nonunion of the coccyx. A Kaiser Permanente progress note dated January 6, 1998 indicated that appellant still suffered pain, but that magnetic resonance imaging scan was negative.

In a letter dated March 6, 1998, appellant detailed the pain and disability she suffered as a result of her employment injuries.

On April 16, 1998 appellant's representative requested reconsideration.

By decision dated May 5, 1998, the Office reviewed the case on its merits and determined that modification must be denied as the evidence submitted in support of the application was not sufficient to warrant modification of the prior decision. In an accompanying memorandum, the Office indicated that appellant failed to submit any medical evidence establishing that she was totally disabled due to her employment injury of November 5, 1996.

The Board finds that appellant failed to establish any disability commencing December 30, 1996 causally related to her November 5, 1996 accepted employment injury.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.² As part of this burden, the claimant must present rationalized medical evidence, based on a complete and accurate medical background showing causal relationship.³

In the present case, appellant failed to submit any medical evidence addressing whether she was totally disabled after December 30, 1996 due to her November 5, 1996 employment

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Joseph T. Gulla*, 36 ECAB 516 (1985).

injury. In his reports dated November 5 and November 12, 1996, Dr. Mask, a specialist in anesthesiology and internal medicine, indicated that appellant could return to work on November 11 and November 18, 1996, respectively. Following his examination on November 20, 1996, Dr. Dhillon indicated appellant could return to work in two weeks. Dr. Dhillon did not address total disability in his reports dated January 10, 1997. Moreover, neither the progress notes from Dr. Dhillon's office nor those from appellant's treatment at Kaiser Permanente addressed the issue of appellant's disability or whether any such disability was related to her employment.⁴ Finally, in his report dated May 29, 1997, Dr. Albright, a Board-certified orthopedic surgeon, failed to address whether appellant suffered any employment-related disability. Accordingly, because appellant failed to submit any medical evidence addressing whether she suffered total disability after December 30, 1996 causally related to her employment injury, appellant failed to meet her burden of proof.

The decision of the Office of Workers' Compensation Programs dated May 5, 1998 is affirmed.

Dated, Washington, D.C.
February 11, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

⁴ Moreover, it is unclear whether these progress notes were signed by physicians as is required to constitute probative medical evidence; *see* 5 U.S.C. § 8101(2); *Joseph N. Fassi*, 42 ECAB 677, 679 (1991).