

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of EDWARD A. JONES and U.S. POSTAL SERVICE,  
POST OFFICE, Tampa, FL

*Docket No. 01-1845; Submitted on the Record;  
Issued May 24, 2002*

---

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has established disability from work for the period April 26 through July 13, 2000 causally related to his January 24, 2001 accepted post-concussion syndrome injury.

The record reflects that appellant, a postal worker, suffered from two separate head traumas which occurred in the performance of his duties on January 24 and August 31, 2000.

Appellant filed CA-7 forms claiming compensation on the account of traumatic injury or occupational disease for the period of April 26 through July 13, 2000. By decision dated January 24, 2001, the Office of Workers' Compensation Programs denied appellant's claim for compensation for the periods April 26 through July 13, 2000. The Office found that there was no medical evidence which supported that the time off was related to the accepted condition of post-concussion syndrome resulting from the January 24, 2000 work injury. Instead, the Office found that appellant's time off was due to treatment of a nonwork-related condition. By decision dated June 20, 2001, the Office denied modification of its prior decision. The instant appeal follows and concerns only whether appellant's disability from work from April 26 through July 13, 2000 resulted from or is related to the January 24, 2000 injury which resulted in post-concussion syndrome.

The Board finds that the evidence fails to establish that appellant was disabled from his accepted post-concussion syndrome injury for the period April 26 through July 13, 2000.

The record reflects that appellant stopped work on January 25, 2000 as a result of his January 24, 2000 work injury and returned to on work February 1, 2000. He again stopped work on April 26, 2000.

Under the Federal Employees' Compensation Act,<sup>1</sup> once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>2</sup> The Office may not terminate compensation without establishing that the disability has ceased or that it was no longer related to employment.<sup>3</sup> After termination or modification of compensation benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to appellant.<sup>4</sup> In order to prevail, he must establish by the weight of the reliable, probative and substantial evidence that he or she had an employment-related disability which continued after termination of compensation benefits.<sup>5</sup>

On June 7, 2000 appellant filed his first Form CA-7 claiming compensation of wage loss starting April 26, 2000 on the account of a nervous disorder. A certification of visit dated April 26, 2000 indicated that appellant reported to the Department of Veterans Affairs for evaluation of stress. Later statements indicated that appellant was being treated for stress disorder in the stress treatment program at Bay Pines, Florida. A June 7, 2000 chart note by Dr. Walter A. Salmeron, noted that memory testing along with a neurological evaluation was indicated as appellant had a s/p head concussion, which could be a lingering phenomena lasting several months. Dr. Salmeron did not hold appellant off work. In a medical report dated June 29, 2000, Dr. Steven Schostal, psychiatrist, along with Honorable Stevenson Wiseman, ARNP advised that appellant could return to work. They advised that, due to appellant's symptoms of post-traumatic stress disorder, appellant was still sensitive to loud noises and must be given clear, concise messages respectfully communicated to him in the workplace. The report further indicated that appellant had requested to be isolated from stressful situations by providing him a quiet area to do his work. A September 5, 2000 note from Dr. Schostal indicated that because of his post-traumatic stress disorder, appellant was disabled from working April 26 through June 23, 2000.

Appellant's May 29, 2000 statement, filed in claim number 06-2008372, stated that he was a disabled Vietnam veteran who has been diagnosed with post-traumatic stress syndrome. He indicated that he was struck on the head with an apartment mailbox door in January 2000 and indicated that he has had a loss of memory since that injury. Appellant stated that on April 26, 2000 he was being harassed by a supervisor and that he suffered an anxiety attack while delivering the mail. He immediately drove to the Veterans Administration hospital where he was seen by a doctor and placed into the stress treatment program. An undated memorandum from Don Moore, Manager indicated that appellant was generally able to perform his required duties, but was asking for more overtime than all indicators allowed, so a supervisor accompanied appellant on his route to determine the source of the problem. In an April 26, 2000 statement, Mr. Moore advised that on April 26, 2000, Supervisor Ron Sandlin was performing normal,

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Charles E. Minniss*, 40 ECAB 708, 716 (1989).

<sup>3</sup> *Id.*

<sup>4</sup> *Virginia Davis-Banks*, 44 ECAB 389 (1993).

<sup>5</sup> *Wentworth M. Murray*, 7 ECAB 570, 572 (1955).

routine, street supervision with appellant. He indicated that appellant apparently did not want to be supervised and became belligerent with Mr. Sandlin, called Mr. Sandlin a profane name and went home sick. Later, a claim for stress was filed. Mr. Moore further advised that appellant reported to work on June 23, 2000 with documentation that he needed a quiet place to perform his duties. Mr. Moore indicated that he explained to appellant why the employing establishment could not allow him to work with those limitations as the station is directly in the flight path of Tampa International Airport and there was no quiet place. He stated that appellant did not get his medical clearance until July 13, 2000.

Appellant's own statement coupled with the employing establishment statements contained in case file number 06-2008372, reveal that the disability claimed from April 26 through July 13, 2000 is unrelated to the accepted post-concussion syndrome injury of January 24, 2000 and pertains to a preexisting nonwork-related condition.<sup>6</sup> As appellant has failed to submit rationalized medical evidence establishing that he was disabled due to his accepted employment injury, he has not met his burden of proof in establishing further entitlement to compensation for the period April 26 through July 13, 2000.

The June 20 and January 24, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC  
May 24, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

---

<sup>6</sup> The Board notes that, other medical reports of record, which concerned appellant's complaints after his second head trauma of August 31, 2000 are irrelevant to the issue at hand as it does not relate to the period of April 26 through July 13, 2000 for which wage loss is claimed.