

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARVIN CASEY and U.S. POSTAL SERVICE,
MAIN POST OFFICE, St. Louis, MO

*Docket No. 01-1320; Submitted on the Record;
Issued April 2, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
WILLIE T.C. THOMAS

The issue is whether appellant has any continuing disability due to his accepted March 2, 2000 employment injury after March 26, 2000.

On March 2, 2000 appellant, then a 55-year-old tractor-trailer operator, filed a traumatic injury claim alleging that on that date he hurt his left knee. Appellant stated that the tractor he was driving went into full throttle when he shifted from neutral into drive. He stopped work on March 2, 2000.

By letter dated March 17, 2000, the Office of Workers' Compensation Programs accepted appellant's claim for a left knee contusion.

Appellant returned to limited-duty work on March 22, 2000 and he stopped work on March 26, 2000. He has not returned to work.

In an April 12, 2000 letter, the Office advised appellant it had been notified that he had not returned to any type of work at the employing establishment since the date of injury. The Office further advised appellant that the employing establishment had light-duty work available for him and there was no medical evidence in his record establishing that he was temporarily totally disabled for work. The Office requested that appellant submit medical evidence supportive of continuing disability.

By decision dated January 11, 2001, the Office found the evidence of record insufficient to establish that appellant had any continuing disability due to his March 2, 2000 employment

injury. The Office also found the evidence of record insufficient to establish that appellant was entitled to continuation of pay for the period March 27 to April 21, 2000.¹

The Board has duly reviewed the case record and finds that appellant has failed to establish that he has any continuing disability due to his accepted March 2, 2000 employment injury after March 26, 2000.

A person who claims benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim including the fact that an injury occurred in the performance of duty as alleged and that disability for employment was sustained as a result thereof.³ To establish entitlement to continuation of pay or monetary compensation benefits, an employee must establish through competent medical evidence that disability from work resulted from the employment injury.⁴

In this case, appellant contends that he was unable to work due to his March 2, 2000 employment-related left knee strain after March 26, 2000. On July 27, 2000 Dr. Amin Valliani, an internist and appellant's treating physician, indicated that appellant's employment injury had not resolved by placing a checkmark in the space marked "no." The Board has held that an opinion on causal relationship which consists only of a physician checking a box in a medical form report question is of diminished probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.⁵ Inasmuch as Dr. Valliani did not provide any medical rationale explaining how or why appellant's continuing disability was caused by the March 2, 2000 employment injury, his report is insufficient to establish appellant's burden.

Dr. Valliani's October 24, 2000 treatment notes revealed that he indicated on July 7, 2000 that appellant's left knee injury had not resolved. He indicated that appellant's knee needed to be reevaluated because he had not seen him since May 26, 2000. Dr. Valliani further indicated that appellant's left knee was not evaluated on May 12, 2000. He did not provide any medical rationale explaining how or why appellant's employment injury had not resolved on July 7, 2000. Further, he did not address whether appellant had any disability since that time.

In his October 30, 2000 treatment notes, Dr. Valliani noted appellant's neck surgery and improvement of appellant's left knee. His treatment notes did not address whether appellant has any disability due to his March 2, 2000 employment injury.

¹ The Board notes that, subsequent to the Office's January 11, 2001 decision, the Office received medical evidence. The Board, however, cannot consider evidence that was not before the Office at the time of the final decision. See *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35 (1952); 20 C.F.R. § 501.2(c)(1). Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 501.2(c).

² 5 U.S.C. §§ 8101-8193.

³ *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990); *Daniel R. Hickman*, 34 ECAB 1220 (1983).

⁴ *Gerald S. Chase*, 44 ECAB 572 (1993).

⁵ See *Lucrecia M. Nielson*, 42 ECAB 583, 594 (1991).

Dr. Valliani's treatment notes and return to work slip dated December 5, 2000 indicated that appellant was able to return to full-duty work on December 18, 2000 with no restrictions. In his December 8, 2000 report, Dr. Valliani provided a history of his treatment of appellant subsequent to the March 2, 2000 employment injury. He stated that appellant had "[a] knee problem after his accident at work in March. That problem has resolved and had improved dramatically when I saw him on October 30, 2000. Technically, he should be able to go back to work without any problems." Dr. Valliani noted that appellant was involved in a motor vehicle accident while he was off work and he sustained neck injuries that required surgery.⁶ He concluded that technically appellant was released to return to work full duty as of December 18, 2000. Dr. Valliani's treatment notes, return to work slip and report establish that appellant does not have any continuing disability due to his March 2, 2000 employment injury.

In this case, the Office accepted appellant's traumatic injury claim but found the medical evidence insufficient to establish that he was disabled from March 27 to April 21, 2000. The Board finds that there is no medical evidence establishing that appellant was disabled during that period. The record contains an employing establishment memorandum indicating that an April 5, 2000 medical certification found appellant totally incapacitated and unable to work during the period March 22 to May 15, 2000 and unable to resume his driving duties when he returned to work. This medical certification, however, is not in the record. There is no other medical evidence of record addressing whether appellant's March 2, 2000 employment injury resulted in temporary total disability after March 26, 2000.

Inasmuch as appellant has failed to submit rationalized medical evidence establishing that he has any continuing disability due to his March 2, 2000 employment injury after March 26, 2000, he has failed to satisfy his burden of proof.

⁶ The record reveals that appellant was involved in a motor vehicle accident while taking his child to school on May 10, 2000.

The January 11, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 2, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member