

File Number:
Merit Review4-D-RECU

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U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300
Phone: (904) 366-0100

December 16, 2013

Date of Injury:
Employee:


Dear Ms. :

This concerns your compensation case and your request for reconsideration received on 11/15/2013

We have evaluated the evidence submitted and have reviewed the merits of your case under 5 U.S.C. 8128. You have provided sufficient evidence to warrant modification of the decision 11/16/2012. Based on the information received, the decision is now vacated.

The reasons for this decision are outlined in the enclosed Notice of Decision.

Sincerely,


Tanya R. Morgan
Senior Claims Examiner

PAUL H FELSER
FELSER LAW FIRM
PO BOX 10267
SAVANNAH, GA 31412

If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.

NOTICE OF DECISION

Claimant Name:
Case Number:

ISSUE: The issue for determination is whether the evidence presented is of sufficient probative value to vacate the decision dated 11/16/2012.

REQUIREMENTS FOR ENTITLEMENT: In accordance with the regulations set forth in 20 CFR § 10.609, if an application for reconsideration is accompanied by new and relevant evidence or by an arguable case for error, OWCP will conduct a merit review of the case to determine whether the prior decision should be modified. If sufficient evidence exists to overturn the prior decision, it should be vacated.

To establish entitlement to compensation benefits under the FECA, it is not sufficient for the employee merely to establish that he or she has disability for employment. The employee must establish that the disability is causally related to the accepted employment injury. The Act provides for payment of compensation only for as long as there exist a proven physical or related impairment attributable to the employment injury. John A. Ceresoli, Sr., 40 ECAB ____ (1988) [88-1565 issued November 28, 1988].

BACKGROUND: On _____, you filed a claim for Traumatic Injury indicating while performing your job duties as _____ in _____ you sustained an injury on _____ as a result of a slip and fell between outdoor stairway landing and parking deck.

Your claim was accepted for ABRASION OR FRICTION BURN OF ELBOW, FOREARM AND WRIST WO INFECTION, RIGHT, 9130; REFLEX SYMPATHETIC DYSTROPHY OF THE UPPER LIMB, RIGHT, 33721.

On _____, you filed a claim for wage loss for the period of _____ through _____. By letter dated _____, you were informed of the evidence required to support your claim and afforded 30 days to provide the information to the Office.

On 11/16/2012, a formal decision was issued denying your claim for the period of _____ through _____ because the medical evidence in your file was insufficient to support that your work injury of _____ caused you to be disabled and incapable of working during that period.

By letter dated 11/15/2013, your attorney, Paul H. Felser, requested reconsideration of the 11/16/2012 decision on your behalf. He noted that Dr. _____, provided a report dated _____ to fully support your disability following the work event. Mr. Felser also noted that Dr. _____ provided a well reason response to the development undertaken by the Office.

DISCUSSION OF EVIDENCE: I conducted a merit review of your case in its entirety.

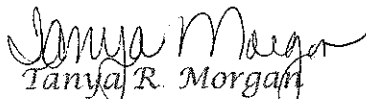
The evidence in your case revealed that on _____ you had ar _____ at _____ and that the Office authorized the procedure on _____

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The Office received a medical report from Dr. [redacted] dated [redacted]. In his report, he noted that you were completely disabled from [redacted] through [redacted] and by [redacted] he released you back to work with restrictions. Dr. [redacted] noted that you were unable to perform the physical demands of your date of injury position due to the work incident of [redacted].

BASIS FOR DECISION: The evidence in your case supports that you had authorized surgery on [redacted] and that Dr. [redacted] opined that you were completely disabled from [redacted] through [redacted]. Dr. [redacted] also noted that he provided work restriction as of [redacted] because due to the work injury of [redacted] you were physically incapable of performing the job duties as a [redacted]. The evidence in your case does not support that as of [redacted] you were offered a position with the agency based on restrictions noted by Dr. [redacted]. Therefore, you are entitled to wage loss for temporary total disability from [redacted] through [redacted].

CONCLUSION: Based on the evidence in your case, the decision dated 11/16/2012 is vacated.


Tanya R. Morgan
Senior Claims Examiner