

Casebase Number: Case 4

Title of Payment: Disablement Benefit



Northside Community Law and Mediation Centre
Northside Civic Centre
Bunratty Road
Coolock
Dublin 17

Date of Final Decision: 03/06/2004

Title of Payment: Disablement Benefit

Date of Final Decision: 3rd June, 2004

Keywords: Entitlement review—medical —whether Appellant incapacitated for work by disability—appeal partially allowed.

Organisation who assisted claimant: Northside Community Law and Mediation Centre (NCL&MC)

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Case Summary:

Appellant was on Disability/Occupational Injury Benefit for one year. Her benefit was revoked as of 15/08/03 on the basis of a medical assessment that stated Appellant was fit for other categories of work.

Background:

Appellant worked as a sewer, doing embroidery for 30 years until she was injured due to an eardrum that had ruptured in her childhood. She had had an operation to correct her eardrum, which was unsuccessful and left her with recurring ear infections and hearing loss, as well as extreme sensitivity to noise. Recently, Appellant had discovered that her inner ear had decayed due to infection and was incurable. She was in a lot of pain and had much trouble hearing and communicating with people on the job, so she was forced to leave her job. Appellant claimed Disability/Occupational Injury Benefit on 23/09/02 and was receiving €144.00 per week, including CDA). Social Welfare Services disallowed her benefit from 15/08/03 following a medical exam on 07/08/03, where the Medical Assessor deemed Appellant fit for work. Appellant appealed on 22/08/03 and had another medical assessment on 21/10/03. However, her appeal was disallowed on 2/12/03. The Deciding Officer determined that Appellant was not incapable of work, based on medical examinations on 07/08/03 and 21/10/03. Appellant appealed the Deciding Officer's decision on 28/10/03.

Relevant Evidence put forth by Appellant:

Appellant produced a letter from her employer dated 8/03/04 confirming that she is unable to work there anymore due to the noisy conditions and the fact that Appellant is unable to hear instructions, which causes problems.

Relevant Evidence put forth by Social Welfare Services:

- Medical Report 7/8/03, found that Appellant's hearing was mildly affected. Medical Assessor found Appellant capable of light skilled/semiskilled and moderate skilled/semiskilled work.
- Medical Report 22/10/03, found that Appellant's hearing was moderately affected.
- Medical Assessor stated that Appellant's hearing difficulty was not incapacitating for work in less noisy areas.

Date Appeal Taken:

28/10/03

Date Appeal Heard:

16/03/04

At Hearing: Appellant was questioned on the medical evidence presented, and her medical history. Appellant argued that she no other qualifications and had little other skills/training, as she had left school at the age of 13 and begun her career as a seamstress. Appellant also argued that the “other types of work” that were suggested for her, such as telephonist or receptionist, were inappropriate because her hearing difficulties made it difficult for her to communicate with others.

Decision:

Appeal ALLOWED.

Appeals Officer’s reasoning:

Because Appellant worked as a sewer since she was 13 and has a good work record in that area (noted from the employer’s letter of 8/03/04, which stated Appellant’s job was being kept open as they were very happy with her performance), Appellant seems to be genuine.

Appeals Officer’s Conclusion:

Appellant is entitled to her Disability/Occupational Injury Benefit, though the case should be reviewed in six months.

Observations:

The contested issue in this case was whether Appellant was totally incapable of work or simply incapable of certain types of work. Unlike other cases of this kind, the Appeals Officer in this case focused little on the medical reports and seemed most influenced by Appellant’s work record. It is noteworthy that this decision is only temporary. The Appeals Officer called for a review in six months time. This case calls attention to the potentially time consuming and evolving nature of a Disability Benefit claim.

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