

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF  
INDUSTRIAL ACCIDENTS**

**BOARD NO. 053151-97**

Dayton L. Elliot  
Marco Construction Co.  
AIU Insurance Company

Employee  
Employer  
Insurer

**REVIEWING BOARD DECISION**

(Judges McCarthy, Levine and Maze-Rothstein)

**APPEARANCES**

Hector Zumbadao, Esq., for the employee  
Craig A. Russo, Esq., for the insurer

**MCCARTHY, J.** The insurer appeals from a decision in which an administrative judge allowed its request for termination of weekly compensation benefits for a July 16, 1997 back injury. The insurer argues one issue, and it is meritorious. The date that the judge assigned for the termination of benefits was the filing date of his decision, March 20, 2000. Because that date has no particular evidentiary value, we recommit the case for further findings on the extent and duration of incapacity.

Dayton Elliot injured his back while lifting a compressor at work on July 16, 1997. After working in pain for the next two weeks, he left work for good on July 30, 1997. (Dec. 3-4.)

The employee was examined by an impartial physician, Howard Taylor, M.D., on October 6, 1998. Doctor Taylor diagnosed sprain of the lower back superimposed upon degenerative arthritis of the lower back. (Dec. 4.) While Dr. Taylor causally related the sprain to the July 1997 work incident, he further opined that Mr. Elliot's complaints at the time of his examination were due to extensive underlying spondylosis. According to Dr. Taylor, it was the spondylosis which permanently and partially disabled the employee, but this medical disability was not causally related his work injury. The doctor also opined that the employee had reached a medical end result. (Dec. 5.)

The employee's motion for the submission of additional medical evidence was allowed. (Dec. 5-7.) Elliot then introduced medical reports of Frank A. Graf, M.D., indicating continuing causal relation between the July 1997 work injury and the employee's medical disability. (Dec. 7-8.)

The judge adopted the opinion of Dr. Taylor, that the employee's disability was no longer causally related to his work injury, and instead was caused by his extensive spondylosis condition of his lower back. (Dec. 8.) The insurer's request to discontinue weekly compensation benefits was allowed as of the filing date of the decision. (Dec. 9.)

We have stated repeatedly that "[a] designation of the filing date of the decision as a date of termination is arbitrary, as that date affords no basis for a change in medical or vocational incapacity status." Betty v. Olsten Health Care, 12 Mass. Workers' Comp. Rep. 311, 313 (1998), citing Sullivan v. Commercial Trailer Repair, 7 Mass. Workers' Comp. Rep. 8, 9 (1993). See also Ohop v. Schott Fiber Optics, Inc., 13 Mass. Workers' Comp. Rep. 336, 337-338 (1999)(date of hearing not appropriate for benefit reduction, without findings supporting determination). As the filing date of the decision in this case does not provide an evidentiary basis for terminating benefits as of the filing of the decision, we recommit the case for further findings on the extent and duration of incapacity.

So ordered.

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William A. McCarthy  
Administrative Law Judge

Filed: **March 23, 2001**

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Frederick E. Levine  
Administrative Law Judge

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Susan Maze-Rothstein  
Administrative Law Judge