Railroad Retirement Board

§ 220.142 General information about work activity.

(a) The nature of the claimant’s work. If the claimant’s duties require use of the claimant’s experience, skills, supervision and responsibilities, or contribute substantially to the operation of a business, this tends to show that the claimant has the ability to work at the substantial gainful activity level.

(b) How well the claimant performs. The Board considers how well the claimant does his or her work when the
Board determines whether or not the claimant is doing substantial gainful activity. If the claimant does his or her work satisfactorily, this may show that the claimant is working at the substantial gainful activity level. If the claimant is unable, because of his or her impairments, to do ordinary or simple tasks satisfactorily without more supervision or assistance than is usually given other people doing similar work, this may show that the claimant is not working at the substantial gainful activity level. If the claimant is doing work that involves minimal duties that make little or no demands on the claimant and that are of little or no use to the claimant’s railroad or non-railroad employer, or to the operation of a business if the claimant is self-employed, this does not show that the claimant is working at the substantial gainful activity level.

(c) If the claimant’s work is done under special conditions. Even though the work the claimant is doing takes into account his or her impairment, such as work done in a sheltered workshop or as a patient in a hospital, it may still show that the claimant has the necessary skills and ability to work at the substantial gainful activity level.

(d) If the claimant is self-employed. Supervisory, managerial, advisory or other significant personal services that the claimant performs as a self-employed person may show that the claimant is able to do substantial gainful activity.

(e) Time spent in work. While the time the claimant spends in work is important, the Board will not decide whether or not the claimant is doing substantial gainful activity only on that basis. The Board will still evaluate the work to decide whether it is substantial and gainful regardless of whether the claimant spends more time or less time at the job than workers who are not impaired and who are doing similar work as a regular means of their livelihood.

§ 220.143 Evaluation guides for an employed claimant.

(a) General. The Board uses several guides to decide whether the work the claimant has done shows that he or she is able to do substantial gainful activity.

(1) The claimant’s earnings may show the claimant has done substantial gainful activity. The amount of the claimant’s earnings from work the claimant has done may show that he or she has engaged in substantial gainful activity. Generally, if the claimant worked for substantial earnings, this will show that he or she is able to do substantial gainful activity. On the other hand, the fact that the claimant’s earnings are not substantial will not necessarily show that the claimant is not able to do substantial gainful activity. The Board will generally consider work that the claimant is forced to stop after a short time because of his or her impairment(s) as an unsuccessful work attempt and the claimant’s earnings from that work will not show that the claimant is able to do substantial gainful activity.

(2) The Board considers only the amount the claimant earns. The Board does not consider any income not directly related to the claimant’s productivity when the Board decides whether the claimant has done substantial gainful activity. If the claimant’s earnings are subsidized, the amount of the subsidy is not counted when the Board determines whether or not the claimant’s work is substantial gainful activity. Thus, where work is done under special conditions, the Board only considers the part of the claimant’s pay which the claimant actually “earns.” For example, where a handicapped person does simple tasks under close and continuous supervision, the Board would not determine that the person worked at the substantial gainful activity level only on the basis of the amount of pay. A railroad or non-railroad employer may set a specific amount as a subsidy after figuring the reasonable value of the employee’s services. If the claimant’s work is subsidized and the claimant’s railroad and non-railroad employer does not set the amount of the subsidy or does not adequately explain how the subsidy was figured, the Board will investigate to see how much the claimant’s work is worth.

(3) If the claimant is working in a sheltered or special environment. If the