

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA J. HOGAN and DEPARTMENT OF THE AIR FORCE,
TINKER AIR FORCE BASE, Okla.

*Docket No. 97-969; Submitted on the Record;
Issued December 17, 1998*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant established that her emotional condition was sustained in the performance of duty.

On March 22, 1993 appellant, then a 50-year-old procurement clerk, filed a notice of occupational disease, claiming that depression, anxiety and "constant, increasing pain in her entire body" as well as stomach and colon distress, was caused by the reorganization and relocation of her duty station in March 1991. Appellant stated that moving to the other end of the building took three weeks and the "entire time I was being tormented."

In a lengthy handwritten statement, appellant described her pain in detail and explained that she was forced to quit her job to get her blood pressure under control and "get rid of the fear, anger, frustration and dread to see another day come," which had been caused by her work environment. Appellant stated that a memorandum typed by her supervisor was "nothing but lies" and that dealing with him caused "absolute terror" for her. She alleged that her work caused such stomach distress that she had to eat baby food.

In a lengthy typed statement, appellant listed specific incidents at work that caused her stress from March 25 until June 7, 1991 when she resigned. Appellant noted that her work area was "very cramped" and that she had to move her work station and computer by herself. Appellant described a coworker's "hostility" in regard to her preparation of the monthly reports, her problems in using the office computers, an incident involving her desire that her telephone number not be placed on a recall roster, the processing of her resignation form and her appeal of the denial of unemployment benefits.

On May 26, 1993 the Office of Workers' Compensation Programs asked appellant to clarify the work factors she had identified and to provide detailed information regarding each instance. Appellant responded with a lengthy statement describing the office move and the

materials, including files, records, shelving, machines, bookcases, and boxes, she had to transport personally.

On August 12, 1993 the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that appellant sustained an emotional condition in the performance of duty. The Office found that some of the claimed events at work were factually established but that the medical evidence did not demonstrate any connection between these work factors and appellant's condition.

Appellant timely requested an oral hearing, which was held on March 1, 1995. Appellant stated that following the reorganization she had to move three work areas to the other end of the building, which took her three weeks, carrying heavy records and materials. Appellant added that she hurt all over but did not seek medical treatment at the time because she thought the pain would go away.

Appellant also described the incident involving her telephone number being placed on the recall list, as well as the extensive photocopying she was ordered to do and the shifting around of heavy boxes she had to move to gain access to records in file cabinets she needed. Finally, appellant testified that her supervisor had written a letter to the state unemployment agency, which then accused her of "trying to overthrow the government."

On May 2, 1995 the hearing representative denied the claim on the grounds that the medical evidence was insufficient to establish that compensable work factors caused her emotional condition. On April 30, 1996 appellant requested reconsideration and submitted several research articles discussing fibromyalgia¹ as well as a September 25, 1996 report from Dr. Carl D. Camp, Board-certified in family practice, and a March 9, 1995 letter from Dr. Mary Zoe Baker, Board-certified in internal medicine.

On January 7, 1997 the Office denied modification of its prior decision on the grounds that the medical reports appellant submitted in support of her reconsideration request were equivocal and speculative.

The Board finds that appellant has failed to meet her burden of proof in establishing that she sustained either an injury or an emotional condition in the performance of duty.

Under the Federal Employees' Compensation Act,² appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by factors of her federal employment. To establish that she sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; (2) medical evidence establishing that she has an

¹ *The Merck Manual* (16th ed. 1992) defines fibromyalgia as a group of common nonarticular rheumatic disorders characterized by achy pain, tenderness, and stiffness of muscles, tendon areas and adjacent soft tissues.

² 5 U.S.C. § 8101 *et seq.*

emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.³

Workers' compensation law does not cover each and every injury or illness that is somehow related to employment.⁴ There are distinctions regarding the type of work situation giving rise to an emotional condition which will be covered under the Act.

For example, disability resulting from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employing establishment is covered.⁵ However, an employee's emotional reaction to an administrative or personnel matter is generally not covered,⁶ and disabling conditions caused by an employee's fear of termination or frustration from lack of promotion are not compensable. In such cases, the employee's feelings are self-generated in that they are not related to assigned duties.⁷

Nonetheless, if the evidence demonstrates that the employing establishment erred or acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁸ However, a claimant must support her allegations with probative and reliable evidence; personal perceptions alone are insufficient to establish an employment-related emotional condition.⁹

The initial question is whether appellant has alleged compensable employment factors as contributing to her condition.¹⁰ Thus, part of appellant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents which appellant believes caused or adversely affected the condition for which she claims compensation.¹¹ If appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.¹²

In this case, appellant identified three compensable work factors, namely, the relocation that required her to move office materials and records; the extensive photocopying she was asked

³ *Vaile F. Walders*, 46 ECAB 822, 825 (1995).

⁴ *Lillian Cutler*, 28 ECAB 125, 129 (1976).

⁵ *Jose L. Gonzalez-Garced*, 46 ECAB 559, 563 (1995).

⁶ *Sharon J. McIntosh*, 47 ECAB ____ (Docket No. 94-1777, issued August 28, 1996).

⁷ *Barbara E. Hamm*, 45 ECAB 843, 850 (1994).

⁸ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

⁹ *Ruthie M. Evans*, 41 ECAB 416, 425 (1990).

¹⁰ *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

¹¹ *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

¹² *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

to do, and the necessity to shift boxes around that prevented her from getting the records she needed to carry out her assignment. Therefore, the Board will consider the medical evidence.

In an August 18, 1992 report, Dr. Camp, who began treating appellant in 1978, stated that she had suffered from persistent hypertension since 1980, that in April 1991 she complained of job-related stress, and that in June 1991 she reported she had quit her job and “felt good.” Appellant was not seen again until July 10, 1992, when she stated that she had lost her memory for a year and was hurting all over and that her pain was due to excessive lifting at work in March through May 1991. Dr. Camp concluded that appellant had suffered extreme stress symptoms, and opined: “I believe her illness is partially job related....”

In his September 25, 1996 report, Dr. Camp stated that appellant had been experiencing pain in her upper back, shoulders, and arms for years and believed that the pain began in 1991. He added that appellant might have fibromyalgia, based on her history of “widespread musculoskeletal pain.” Dr. Camp concluded that too much physical activity and stress could cause fibromyalgia and felt that appellant’s pain might be related to her previous occupation.

While Dr. Camp referred generally to excessive lifting, he did not discuss how the specific work factors identified by appellant were stressful or caused her diagnosed fibromyalgia. Nor did he offer any medical rationale for his conclusion that appellant’s pain might have been caused by her job.¹³ Moreover, his reports were phrased in terms of probability and therefore lack probative value.¹⁴

Dr. Baker also diagnosed fibromyalgia, “characterized by constant, diffuse pain,” but offered no opinion on the cause and effect relationship between appellant’s condition and work factors. Therefore, her reports have little probative value.¹⁵

As the hearing representative found, the recall roster incident was an administrative matter, and appellant has furnished no evidence that the employing establishment erred or acted abusively in compiling and distributing this roster. In fact, appellant’s supervisor commented that appellant’s telephone number was listed in the city directory, contrary to her statement that the number was unlisted.

In sum, appellant has provided lengthy detailed statements describing her pain, her work in March to May 1991, and her feelings about her life. However, she has failed to submit the medical evidence necessary to establish a causal relationship between her diagnosed conditions

¹³ See *Steven M. Beebe*, 41 ECAB 633, 637 (1990) (finding that a physician’s opinion that indicated a causal relationship between appellant’s emotional condition and his employment by checking “yes” on a medical form was, without explanation or rationale, of little probative value).

¹⁴ See *Roger Dingess*, 47 ECAB ____ (Docket No. 94-850, issued October 5, 1995) (finding that although a medical opinion need not state the cause or etiology of a condition as an absolute medical certainty, neither can the opinion be speculative or equivocal).

¹⁵ See *Judith J. Montage*, 48 ECAB ____ (Docket No. 95-51, issued February 27, 1995) (finding that medical reports not containing rationale on causal relationship are generally insufficient to meet appellant’s burden of proof).

and work factors.¹⁶ Therefore, the Board finds that the Office properly denied her claim for compensation.

The January 7, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
December 17, 1998

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

¹⁶ The Board notes that the materials and articles on fibromyalgia, while interesting and informative, are of no probative value in establishing that appellant's condition was caused by work factors because they consist of statements of general application rather than statements addressing the particular circumstances of appellant's claim; *see Nathan L. Harrell*, 41 ECAB 402, 408 (1990), citing *William J. Murray*, 35 ECAB 606, 608 (1984).