U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GARY W. GILBERT and U.S. POSTAL SERVICE,
POST OFFICE, Denver, CO

Docket No. 01-1004; Submitted on the Record;
Issued July 3, 2002

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation benefits effective July 15, 2000.

On December 7, 1990 appellant, then a 43-year-old mail processor, filed a notice of occupational disease and claim for compensation alleging that his federal employment aggravated his preexisting post-traumatic stress disorder, caused stress-induced laryngeal dyskinesia and aggravated other medical problems. Appellant indicated that he first realized that his condition was caused or aggravated by his employment on July 12, 1990. The employing establishment referred appellant for a psychiatric fitness-for-duty evaluation in December 1990. In March 1991, the employing establishment terminated appellant. On May 2, 1991 the Office accepted appellant's claim for temporary depression and paid appropriate benefits for disability effective March 22, 1991.

Appellant was treated by various physicians at the Department of Veterans Affairs (VA). Appellant discontinued treatment with Dr. Michael B. Craine, his treating VA psychologist, in the latter part of 1994 and elected to come under the care of Dr. John L. Lightburn, a Board-certified psychiatrist, in October 1996. The Office had initially referred appellant to Dr. Lightburn, along with a June 13, 1991 statement of accepted facts and the entire medical record in September 1991. With respect to work factors, the June 13, 1991 statement of accepted facts stated: "Stressors accepted as work related were the encounters with two female supervisors."

Upon further development of the case record, the Office issued a new statement of accepted facts dated April 4, 1997. The Office reviewed all the factors of employment cited by appellant as contributing to his condition and made determinations as to which factors were considered compensable, noncompensable and not accepted as factual. Compensable factors the Office accepted were: the work environment was noisy and subject to temperature variations. Noncompensable factors were: appellant's perception that procedures were stupid and wasteful

and that he could not change them; appellant's perception that supervisors gave directions in a degreading and offensive manner and supervisors treated employees as if they were all morons; appellant's dislike of working with female employees; appellant's perception that the work was fast paced and repetitive with a high density of people and production requirements. Appellant's allegation that the working conditions were dusty was not accepted by the Office as factual.

On July 17, 1997 the Office referred appellant to Dr. Laura Klein, a Board-certified psychiatrist, along with the April 4, 1997 statement of accepted facts and medical record, for a second opinion examination. The Office determined that the September 30, 1997 report of Dr. Klein was not properly obtained due to its failure to notify appellant's designated representative of the appointment.

The Office referred appellant to Dr. Jason Richter, a Board-certified psychiatrist, along with the April 4, 1997 statement of accepted facts and medical record, for a second opinion evaluation. In a January 31, 1998 report, Dr. Richter reviewed the pertinent factual and medical evidence of file and described his findings on mental status examination. He essentially opined that appellant was in partial remission of his depression as a result of his current treatment, both psychotherapy and antidepressant medications. Dr. Richter stated that he believed that the compensable factor, namely, the noise in the workplace from overhead conveyors and machines and temperature changes, presented only a minimal contributory factor to appellant's depression and would account for no more than 10 percent of his depressed mood or difficulties in working in the postal environment. Most of appellant's difficulties in the postal environment appeared to be an outgrowth of interpersonal conflicts with supervising personnel, which is listed as a noncompensable factor of employment. Dr. Richter noted that appellant was able to function in a military environment, which required ongoing interactions with coworkers and opined that appellant remained capable of interacting appropriately with coworkers if he so desired. He opined that the noise of operating automated equipment would cause appellant additional stress, but that appellant was not disabled from being able to work in this environment so long as he continues his current psychiatric treatment. Appellant was certainly capable of working in an environment which did not involve the operating of machinery, but might involve other tasks related to mail sorting. Dr. Richter opined that appellant was mentally capable of completing an eight-hour workday and that restrictions should primarily be based on his physical condition, as there were no significant psychological work restrictions. He essentially reiterated his opinion in a letter dated April 8, 1998.

In a report dated June 17, 1998, Dr. Lightburn stated:

> "Dr. Richter's report reflected a very thorough and expert psychiatric examination and a carefully thought out conclusion and second opinion. [Appellant's] depression has improved since I first saw him over five years ago. Dr. Richter's estimate of 10 percent disability due to depression is probably accurate, although it is very difficult to attach a numerical value to these emotional or mental problems. When Dr. Richter and I are limited by the 'accepted facts,' it is very difficult to provide a true picture of [appellant's] disability. For example, noise and unstable temperature were accepted as compensable factors of employment,

but the behavior of his supervisors is not accepted. Nor is the physical pain he endured accepted as a factor in his depression.

"I realize that it is necessary to have 'accepted facts' as a method of arriving at an understanding of the degree of disability that might be due to conditions of employment…. In my judgment, the attitude and behavior of his supervisors and the physical pain he was experiencing were much more important factors than the noise or unstable temperature.

"As for his current state of 'employability,' his multiple physical problems in addition to his psychiatric problems are of such severity that he is unable to function in the usual job available in most agencies. I think it would be a disservice to both [appellant] and to the [employing establishment] to encourage him to try to return to work there…."

On November 16, 1998 the employing establishment offered appellant the position of modified distribution clerk. In a letter dated January 21, 1997, the Office found that the job was suitable and afforded appellant 30 days, in which to accept the position or provide an explanation for his refusal.

In a February 15, 1999 report, Dr. Lightburn stated:

"Since receiving the letter dated November 16, 1998, describing the new position with the [employing establishment], appellant has experienced a number of alarming symptoms reminiscent of his earlier [p]ost[-][t]raumatic [s]tress [d]isorder. As you may know, he came out of the armed forces with a severe case of [p]ost[-][t]raumatic [s]tress [d]isorder. He received extensive treatment from the [VA], which relieved him of most of his symptoms. In 1990, the symptoms of this disorder reoccurred when he had his problem with the [employing establishment]…. After being separated from active duty at the [employing establishment,] he improved and appeared to be doing well psychologically. Since November, however, he reports suffering from headaches of increasing severity and frequency. In addition, he has also experienced severe [t]emporomandibular [j]oint pain. Each of these indicate the stress he is experiencing. Old recurrent nightmares have returned about Vietnam and the [p]ostal supervisors. Thus resurgence of the symptoms of [p]ost[-][t]raumatic [s]tress [d]isorder indicate the degree of fear and anxiety he has about this new job….

"I still have the opinion that [appellant] should not return to work at the [employing establishment] because of the persistent anxiety that he continues to experience at the thought of returning to the scene where he experienced so much degradation…."

In an August 27, 1999 report, Dr. Lightburn discussed appellant's current condition in addition to the reports of second opinion evaluators Drs. Klein and Richter and the effects the evaluations had on appellant. In pertinent part, Dr. Lightburn stated that when he recommended

that appellant not be forced to return to work, this was based on the fact that he was treating the "whole man." Dr. Lightburn advised that it was difficult to restrict his attention to only those symptoms and medical conditions contained in the Office's list of accepted facts. He further noted that, although the limited-duty position at the employing establishment was described as a simple job, he would recommend starting out on a part-time basis to give him an opportunity to adapt to the new job.

In a subsequent report of November 24, 1999, Dr. Lightburn reiterated his opinion that appellant has intense pathological anxiety associated with returning to work for the employing establishment. He further recommended that appellant first receive vocational rehabilitation followed by an assignment to a position for which the rehabilitation has prepared him.

The Office found that there was a conflict of medical opinion evidence between Drs. Richter and Lightburn regarding appellant's ability to return to work for the employing establishment. The Office referred appellant to Dr. Bert S. Furmansky, a Board-certified psychiatrist, along with a copy of the April 4, 1997 statement of accepted facts and the medical records for an impartial examination. In a report dated May 10, 2000, Dr. Furmansky noted appellant's history of injury, reviewed his medical history and performed a mental status examination. He provided a psychiatric diagnosis and stated:

> "[Appellant's] most significant diagnosis in terms of impairing significant areas of function in his life is his chronic [p]ost-[t]raumatic [s]tress [d]isorder, which is chronic and severe and is related to his two tours of duty in Vietnam and his history of child abuse and neglect. The events with the supervisors in the workplace were neither catastrophic nor life threatening and would not meet criterion A for a diagnosis of [p]ost-[t]raumatic [s]tress [d]isorder.
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> "Appellant suffers from a major depressive disorder, recurrent, according to medical records, which included statements by his past treating psychiatrist, Dr. Wernicke, MD and his current psychiatrist, Dr. Lightburn. His aggravation of depressive symptomatology related to the actual stress at work had already resolved by the early 1990's according to both Drs. Wernicke and Lightburn. Appellant's current major depressive disorder, recurrent is, in partial remission again, but it preexisted his employment at the employing establishment and is not related to the accepted work injuries of noise and varying temperatures in the workplace.
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> "[Appellant's] [o]ccupational [p]roblem is a result of being in limbo regarding his employment and is not related to the defined compensable factors of employment. Instead, his occupational problem is related to his low level of employability as a result of his nonwork-related preexisting [p]ost-[t]raumatic [s]tress [d]isorder, nonwork-related preexisting major recurrent depressive disorder, nonwork-related preexisting [c]hronic [p]ain [d]isorder with psychological factors affecting a [g]eneral [m]edical [c]ondition and nonwork-related preexisting [p]ersonality [d]isorders.

"It is my opinion that appellant does not currently suffer from a work-related 'temporary depression' due to the compensable factors of employment.

"[Appellant] did indeed have preexisting [p]ost-[t]raumatic [s]tress [d]isorder, severe and mixed personality disorder prior to his employment at the employing establishment. [Appellant] also did indeed experience a temporary stressor while employed at the [employing establishment] because of the over-stimulation of his environment, which is a compensable factor of employment in addition to several noncompensable factors of employment, which are related to conflicts with other individuals, an environment which he perceived as threatening and hostile and the physical stress on his body for standing and walking as many as 6 to 12-hour shifts. The exacerbation of his depressive symptomatology is what I consider equivalent to the word 'temporary' depression. The exacerbation was related in time to the compensable and noncompensable factors of employment. Once [appellant] was removed from the workplace, it is not reasonable to conclude that he is still reacting to the noise in the workplace from overhead conveyors, various machine operations and rolling equipment nor to the noisy work environment or the unstable temperatures in the workplace. Those compensable factors were present at the time of employment but cannot continue to play a role in causing appellant's current depressive symptomatology. His current depressive symptomatology, in my opinion, is preexisting and related to nonwork-related problems, which are far more significant in [appellant]'s current life. I am of the opinion that [appellant]'s persistent depressive symptomatology is due to the preexisting factors and not the compensable factors of employment.

"[Appellant] is currently disabled from his job as a mail processor according to the job description. Working in a noisy environment with overhead conveyors, various machine operations and rolling equipment in addition to the unstable temperatures in the workplace would be too stressful for him and preclude his functioning as a mail processor. He, however, is not totally disabled from working in other areas within the [employing establishment] or in private industry as a result of a continuing psychological condition resulting from compensable factors of employment. As stated above, in my opinion, [appellant] is no longer suffering from a continuing psychological condition caused by the compensable factors of employment. He does continue to suffer from nonwork[-]related preexisting severe psychiatric conditions that significantly impair his ability to adapt to stress….

"Taking into account all of his noncompensable preexisting limitations, [appellant] is capable of working eight hours per day, five days per week. He, however, will require being gradually phased into working because of his long period of remaining out of the workplace. I would recommend starting with four hour days to increase to six hours per day after one week. As stated above, he requires an almost no stress position with little contact with others. Having discrete assignments with details would be appropriate because of his obsessive traits, nature and scrutiny of details. The work restrictions are imposed because

> of [appellant]'s preexisting psychiatric and physical problems. Any assignment must take into account his nonwork[-]related [c]hronic [p]ain [d]isorder with [p]sychological [f]actors [a]ffecting a [g]eneral [c]ondition, his [p]ost-[t]raumatic [s]tress [d]isorder, [m]ajor [d]epressive [d]isorder, recurrent and [p]ersonality [d]isorder, mixed type.
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> "[Appellant]'s limitation, as stated above, are not related to his work injury. They are instead due to his significant preexisting psychopathology and ongoing nonwork[-]related psychological conditions."

By letter dated May 22, 2000, appellant was advised of the proposed termination of compensation and was provided with 30 days to submit additional evidence. Appellant submitted two statements dated June 20 and 23, 2000. Appellant contended that his claims examiner was biased and inappropriately handled his claim. He further contended that her decision contained numerous inaccuracies. Appellant criticized the employing establishment, objected to the statement of accepted facts and discussed a number of work factors, which he felt should have been considered compensable. Appellant further noted that the Office failed to adjudicate his claim for a laryngeal dyskinesia. He advised that the Office had accepted his claim for a bilateral knee condition and indicated that the chronic knee pain was a major factor in aggravating his post-traumatic stress disorder.

In a June 19, 2000 report, Dr. Lightburn stated that Dr. Furmansky's report described appellant's psychiatric and physical condition very accurately. He reiterated his opinion that appellant continues to experience a recurrence of his post-traumatic stress disorder symptoms when he is told he must return to work at the employing establishment. He reiterated his opinion that appellant would more likely succeed if he returned to work at an agency other than the employing establishment where he had so much trouble. He opined that appellant would be better served if his return to work was preceded by a period of vocational rehabilitation. If this was not possible, Dr. Lightburn strongly recommended that appellant's return to work be more gradual than that described by Dr. Furmansky. He noted that appellant's problems required frequent visits to physicians and, therefore, it was unlikely that he would be able to work a 40-hour week with any regularity. Dr. Lightburn further noted that any assignment should be based on the limitation, which Dr. Furmansky clearly described and, if an appropriate position cannot be found, disability retirement should be seriously considered.

By decision dated June 23, 2000, the Office terminated appellant's compensation benefits finding that the weight of the medical evidence established that the employment-related conditions had resolved. Appellant requested a hearing and, by decision dated November 13, 2000, the Office affirmed its prior decision.

The Board has reviewed the case record and finds that the Office met its burden of proof in terminating appellant's compensation effective July 15, 2000.

Once the Office accepts a claim it has the burden of proving that the employee's disability has ceased or lessened before it may terminate or modify compensation benefits.[1]

[1] *Karen L. Mayewski*, 45 ECAB 219, 221 (1993); *Betty F. Wade*, 37 ECAB 556, 565 (1986); *Ella M. Garner*,

After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.[2] To discharge its burden of proof, it is not sufficient for the Office to simply produce a physician's opinion negating causal relationship. As with the case where the burden of proof is upon a claimant, the Office must support its position on causal relationship with a physician's opinion, which is based upon a proper factual and medical background and which is supported by medical rationale explaining why there no longer is or never was, a causal relationship.[3]

In this case, the Office accepted the condition of temporary depression causally related to factors of appellant's employment. This appears to have been based on an April 30, 1991 report of an Office medical adviser who opined, based on the medical evidence before him, that the proper diagnosis was properly major depressive disorder, which was the cause of employment difficulty with the employing establishment rather than having been aggravated by work at the employing establishment. The Office issued a June 13, 1991 statement of accepted facts finding that the "stressors accepted as work related were the encounters with two female supervisors." In 1997, the Office reopened appellant's case for further review on its merits and, made a determination in an April 4, 1997 statement of accepted facts regarding the question of whether appellant experienced his emotional condition due to compensable factors of employment. As compensable work factors were found, the Office proceeded to develop the medical evidence. The Office terminated appellant's entitlement to receive compensation benefits on July 15, 2000 on the grounds that the weight of the medical evidence established that appellant's employment-related conditions had resolved, based on the report of its impartial medical specialist.

The record on appeal reveals that the Office's acceptance of appellant's claim and subsequent June 13, 1991 statement of accepted facts focused on the medical evidence and not on the issue of whether the employment incidents implicated by appellant arose in the performance of duty. Following the acceptance of appellant's claim, in 1997 the claims examiner extensively reviewed appellant's contentions concerning his employment and determined that there existed only two compensable work factors: the work environment was noisy and subject to temperature variations. To insure that Dr. Furmansky's impartial opinion is based upon a proper factual background, it is necessary to evaluate the work factors alleged by appellant to make sure the Office made proper findings regarding which work factors alleged are considered compensable.

Since appellant's claim had been accepted, the Board had further clarified the elements necessary to establish an emotional stress claim, indicating that workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the concept of workers' compensation.

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36 ECAB 238, 241 (1984).

[2] *Jason C. Armstrong*, 40 ECAB 907 (1989).

[3] *Frank J. Mela*, 41 ECAB 115, 125 (1989).

These injuries occur in the course of employment and have some kind of causal connection with it but are not covered because they do not arise out of the employment. Distinctions exist as to the type of situations giving rise to an emotional condition that will be covered under the Federal Employees' Compensation Act. Generally, speaking when an employee experiences an emotional reaction to his or her regular or specially assigned employment duties or to a requirement imposed by his employment or has fear or anxiety regarding his or her ability to carry out assigned duties and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is regarded as due to an injury arising out of and in the course of the employment and comes within the coverage of the Act.[4] Conversely, if the employee's emotional reaction stems from employment matters which are not related to his or her regular or specially assigned work duties, the disability is not regarded as having arisen out of and in the course of employment and does not come within the coverage of the Act.[5]

When working conditions are alleged as factors in causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.[6] When a claimant fails to implicate a compensable factor of employment the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment the Office should then determine whether the evidence of record substantiates that factor. Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.[7] When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, then the Office must base its decision on an analysis of the medical evidence of record.[8]

In this case, the claims examiner found that the compensable work factors consisted of a noisy work environment and a work environment which was subject to temperature variations. Noncompensable factors were: appellant's perception that procedures were stupid and wasteful and that he could not change them; appellant's perception that supervisors gave directions in a degrading and offensive manner and supervisors treated employees as if they were all morons; appellant's dislike of working with female employees; appellant's perception that the work was fast paced and repetitive with a high density of people and production requirements. Appellant's allegation that the working conditions were dusty was not accepted by the Office as factual.

The Board agrees with the claims examiner's assessment regarding the compensability of the factors alleged by appellant.

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[4] *See Lillian Cutler*, 28 ECAB 125 (1976).

[5] *Id.*

[6] *See Barbara Bush*, 38 ECAB 710 (1987).

[7] *Ruthie M. Evans*, 41 ECAB 416 (1990).

[8] *See Gregory J. Meisenberg*, 44 ECAB 527 (1993).

Appellant's stress reaction to his perception that the employing establishment's procedures were stupid and wasteful and that he could not change them do not relate to the specific requirements of the employee's regular or specially assigned duties and, therefore, do not arise in the performance of duty.[9] Such a reaction relates to the desire to work in a particular environment, which is not a compensable factor under the Act.[10]

Appellant asserted that the supervisors gave directions in a degrading and offensive manner and that the supervisors treated the employees as if they were all morons. The Board has recognized the compensability of verbal altercations or abuse in certain circumstances. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under the Act.[11] The Office properly noted that appellant only made a general allegation concerning this matter without providing specific details or sufficient corroborating evidence to establish that such statements were actually made.[12] Thus, appellant has not established a compensable employment factor under the Act in this respect. Moreover, the employing establishment denied that such occurred and advised that it was only appellant's perception. For harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment or discrimination are not compensable under the Act.[13]

Appellant asserted that he disliked working with female employees. However, the Board notes that appellant's reaction to such conditions and incidents at work must be considered self-generated in that it resulted from his frustration in not being permitted to work in a particular environment or to hold a particular position.[14]

Appellant asserted that the work was fast paced and repetitive with a high density of people and production requirements which caused him stress. The employing establishment disputed this allegation stating that this was appellant's perception. The Board has held that emotional reactions to situations in which an employee is trying to meet his position requirements are compensable.[15] The Office found that the position description did not fit appellant's allegation. Moreover, appellant's assertion that he was given job tasks that were beyond any person's capability or that he must perform the tasks at an exceptional pace were not substantiated. Thus, appellant had not established a compensable employment factor under the Act in this respect.

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[9] *See O. Paul Gregg*, 46 ECAB 624 (1995).

[10] *Clara T. Norga*, 46 ECAB 473 (1995).

[11] *See Mary A. Sisneros*, 46 ECAB 155, 163-64 (1994); *David W. Shirey*, 42 ECAB 783, 795-96 (1991).

[12] *See Larry J. Thomas*, 44 ECAB 291, 300 (1992).

[13] *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

[14] *Tanya A. Gaines*, 44 ECAB 923, 934-935 (1993).

[15] *See Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

The Board finds that the Office's statement of accepted facts dated April 4, 1997 is proper and correct.

The Board further finds that the Office met its burden of proof in terminating appellant's entitlement to receive compensation benefits on July 15, 2000 on the grounds that the weight of the medical evidence, as denoted by Dr. Furmansky's May 10, 2000 report, established that appellant's employment-related conditions had resolved. The Office found that there was a conflict of medical opinion evidence between appellant's treating physician, Dr. Lightburn and the Office medical adviser, Dr. Richter and properly referred appellant to Dr. Furmansky, a Board-certified psychiatrist, for an impartial medical examination.[16]

In situations when there exists opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[17]

The Board finds that the weight of the medical evidence rests with the May 10, 2000 report of Dr. Furmansky, the Office referee physician upon whom the Office relied in terminating appellant's benefits. Dr. Furmansky provided a detailed report based upon his own examination of appellant, relied on the statement of accepted facts, as well as appellant's personal history and medical records and concluded that appellant did not suffer from a work related "temporary depression" due to the compensable factors of employment. Although Dr. Furmansky reported along with the other physicians of record support that appellant suffers from an underlying emotional disorder, the report does not establish that his underlying emotional disorder continues to be aggravated or exacerbated by the July 12, 1990 work injury. Dr. Furmansky specifically reasoned that once appellant was removed from the workplace, it was not reasonable to conclude that he was still reacting to the noisy work environment or unstable temperature in the workplace. Those compensable factors were present at the time of the employment but cannot continue to play a role in causing appellant's current depressive symptomatology. As Dr. Furmansky's report was based on a proper factual background and provided findings in support of his conclusion that appellant was no longer suffering from a work-related emotional condition and was no longer disabled, his report is entitled to the weight of the medical evidence.

The only evidence of record after Dr. Furmansky's report is the June 19, 2000 report from Dr. Lightburn, in which he opines that appellant continues to experience a recurrence of his post-traumatic stress disorder symptoms when he is told he must return to work at the employing establishment and appellant's return to work at the employing establishment should be more gradual than that described by Dr. Furmansky. The report, however, is devoid of any rationale or medical explanation as to how or why appellant's recurrence of his underlying emotional disorder symptoms is causally related to the accepted compensable work factors in this case.

[16] Section 8123 of the Act provides, "If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination." 5 U.S.C. §§ 8101-8193, 8123(a).

[17] 5 U.S.C. § 8123(a); *Carl Epstein*, 38 ECAB 539 (1987); *James P. Roberts*, 31 ECAB 1010 (1980).

The Office hearing representative properly noted that the reports of Dr. Lightburn failed to distinguish between those factors found to be compensable and noncompensable and he continually objected to being limited to the "accepted facts." Furthermore, any reaction appellant may have from receiving a job offer or the prospect of returning to work at the employing establishment does not constitute a compensable factor, which would arise to coverage under the Act.[18] Moreover, additional reports from a physician on one side of the conflict that is properly resolved by an impartial specialist are insufficient to overcome the weight accorded the impartial specialist's report or create a new conflict.[19]

In his June 20, 2000 statements, appellant provided additional information regarding allegations of harassment on the part of working for female supervisors, whom he referred to as "The [d]yke and [b]itch [a]Acting [s]upervisors." However, as appellant failed to substantiate his claims of harassment by providing supporting corroborating evidence, the Office hearing representative properly found that appellant's assertion of supervisory harassment was not a compensable factor of employment.

The Office hearing representative also found that the asserted condition of laryngeal dyskinesia, which appellant had originally claimed as part of the present claim, was not considered to be an accepted employment-related condition as the medical evidence of record failed to provide a reasoned medical opinion linking such condition as being causally related to compensable factors of employment. Although appellant additionally asserted that his chronic pain aggravated his preexisting emotional condition, the Office hearing representative properly found that no rationalized medical evidence on this issue was in the record.[20]

The Office, therefore, met its burden of proof to terminate appellant's compensation benefits effective July 15, 2000 on the grounds that the report of Dr. Furmansky constituted the weight of the medical evidence.

[18] *See Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

[19] *See Harrison Combs, Jr.*, 45 ECAB 716 (1994); *Dorothy Sidwell*, 41 ECAB 857 (1990).

[20] The Office hearing representative properly noted that as appellant had an accepted bilateral knee injury claim, any aggravation of his emotional condition should be addressed under that claim.

The November 13, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 3, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member