

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of PAMELA T. HAWLEY and DEPARTMENT OF THE AIR FORCE,  
SEYMOUR JOHNSON AIR FORCE BASE, Goldsboro, NC

*Docket No. 03-1750; Submitted on the Record;  
Issued December 3, 2003*

---

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,  
DAVID S. GERSON

The issue is whether appellant established that her chronic reactivated mononucleosis and fibromyalgia were causally related to her employment.

On August 20, 2001 appellant, a 46-year-old personnel management specialist, filed an occupational disease claim alleging that on June 12, 2001 she first realized that her condition was due to her employment.

In a July 6, 2001 report, Dr. Robin King-Thiele, diagnosed a recurrence of appellant's Epstein-Barre virus.<sup>1</sup> Regarding the cause of appellant's condition, Dr. King-Thiele opined that it was "possible, if not likely, that her stressors with increased workload at her place, both in hours and in anxiety level, as well as her multiple home stressors, have had a significant impact on causing a recurrence of her Epstein-Barre virus to the chronic active phase." She further noted that, as appellant's "acute worsening of her symptomatology was noted at the time she began to work greater than 15 hours per week," Dr. King-Thiele believed that the condition was work related.

In an October 5, 2001 letter, the Office of Workers' Compensation Programs informed appellant that the information submitted was insufficient to support her claim and advised her as to the medical and factual evidence needed to support her claim.

By decision dated February 8, 2002, the Office denied appellant's claim on the basis that she failed to establish a causal relationship between her condition and employment factors.

In a letter dated March 13, 2002, appellant disagreed with the Office's denial and requested reconsideration. In support of her request, she submitted medical evidence.

---

<sup>1</sup> Another name for the virus is mononucleosis.

In a February 10, 2002 report, Dr. King-Thiele concluded that, based upon review of the literature, that there was “evidence to support a connection between chronic Epstein-Barre virus and chronic fatigue syndrome. She opined that appellant “was thought to be at risk for chronic fatigue syndrome given her exacerbation in the work setting and was laid off work secondary to this.”

Dr. King-Thiele, in a February 26, 2002 report, diagnosed reactivation of the Epstein-Barre virus and chronic fatigue syndrome. She noted that the literature on the connection between Epstein-Barre and chronic fatigue syndrome and work factors is both negative and positive. Dr. King-Thiele opined that she believed that appellant had an aggravation of your Epstein-Barre virus based on her work environment and situation.

By decision dated March 21, 2002, the Office denied appellant’s request for modification.

Appellant requested reconsideration by letter dated July 5, 2002.

In a report dated July 30, 2002, the Office medical adviser concluded that appellant’s fibromyalgia, chronic fatigue syndrome and Epstein-Barre virus were not work related. He noted that it was not widely accepted that work-related factors such as stress could aggravate the Epstein-Barre virus.

By decision dated August 27, 2002, the Office denied appellant’s request for reconsideration. The Office found that the medical evidence submitted was equivocal and thus insufficient to support causal relationship.

In letters dated September 1 and 27, 2002, appellant requested reconsideration.

In a report dated September 10, 2002, Dr. King-Thiele noted that laboratory results were negative “until evaluations of Epstein-Barre titers for chronic reactivated mono[nucleosis] were revealed.” She then opined that appellant’s fibromyalgia is due to the reactivation of appellant’s mononucleosis (Epstein-Barre virus). Furthermore, Dr. King-Thiele’s report noted that appellant had “demonstrated improvement with abstention from functional and physical stressors of work as well as deterioration with a return to work which would support a causal work relationship with her chronic syndrome on the basis of a pattern analysis.”

On October 18, 2002 the Office denied appellant’s request for a merit review.

In a letter dated February 18, 2003, appellant requested reconsideration and submitted evidence in support of her claim including a report on stress by the National Institute for Occupational Safety and Health.

In a report dated November 22, 2002, Dr. Joseph G. Jemsek, a Board-certified internist with a subspecialty in infectious disease, diagnosed immune dysfunction syndrome with a strong fibromyalgia component due to multiple stressors. He concluded that appellant’s fibromyalgia was debilitating and “[o]bvious from her history that work stress has contributed to this condition.” Dr. Jemsek noted that appellant related that she first developed flu-like symptoms in July 2000 and was out of work for several days. He then related that in October 2000 appellant

began having increased stressors at work due to job cuts, job demands, etc., such that she was working 20 hours overtime. Dr. Jemsek noted that appellant reported fatigue, sleep problems, general malaise and body aches.

In a January 9, 2003 report, Dr. Jemsek concluded:

“[T]his patient has strong historical and clinical evidence of fibromyalgia syndrome, which in this case is associated with immune dysfunction like syndrome. In my opinion, the fibromyalgia component is clearly debilitating and aggravated by certain stressors. However, it is clear to me that even without these stressors the patient would evidence major debilitation.”

By decision dated July 12, 2003, the Office denied appellant’s request for modification of the prior decision denying her claim.

The Board finds that this case is not in posture for a decision

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>2</sup>

In this case, appellant alleges that her diagnosed conditions of chronic mononucleosis (reactivated Epstein-Barre virus) and fibromyalgia were caused or aggravated by being overworked due to a staff shortages and stress in her job. In support of her claim, appellant has submitted treatment notes documenting that she has been under the care of Dr. King-Thiele and Dr. Jemsek for chronic mononucleosis (reactivated Epstein-Barre virus) and fibromyalgia. Dr. King-Thiele specifically noted that the hours appellant was required to work in her job left her fatigued which reactivated the Epstein-Barre virus which caused her chronic mononucleosis. She noted additional work factors such as stress as having contributed to appellant’s diagnosed conditions. Dr. Jemsek attributed appellant’s fibromyalgia to her occupational work stress and working 20 hours overtime.

In contrast, the Office medical adviser reviewed the reports by Dr. King-Thiele and found no relationship between appellant’s chronic mononucleosis. He further noted that there was no occupational etiology for her symptoms.

The Board having duly considered the opinions of appellant’s treating physicians and the Office medical adviser finds a conflict in the record as to whether or not appellant’s chronic mononucleosis or her fibromyalgia were caused or aggravated by the work factors identified by the Office in the statement of accepted facts. Section 8123 of the Federal Employees’

---

<sup>2</sup> *Nicolette R. Kelstrom*, 54 ECAB \_\_\_\_ (Docket No. 03-275, issued May 14, 2003).

Compensation Act provides that, if there is a 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.<sup>3</sup>

To resolve the conflict in the medical opinion evidence in this case, the Office should refer appellant, along with a copy of the medical record and a statement of accepted facts to an impartial medical specialist for an opinion on the issue of causal relationship. After such development as the Office deems necessary, the Office shall issue a *de novo* decision on appellant's entitlement to compensation.

The decision of the Office of Workers' Compensation Programs dated July 12, 2003 is hereby set aside and the case is remanded for further action consistent with this opinion.

Dated, Washington, DC  
December 3, 2003

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

---

<sup>3</sup> *Lawrence C. Parr*, 48 ECAB 445 (1997); *Wen Ling Chang*, 48 ECAB 272 (1997).