

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDWARD K. TAKIKI and DEPARTMENT OF THE NAVY,
PEARL HARBOR NAVAL SHIPYARD, HI

*Docket No. 03-1999; Submitted on the Record;
Issued November 12, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant's emotional condition is causally related to his federal employment.

On July 23, 2001 appellant, then a 53-year-old machinist, filed a claim asserting that he was bothered by voices daily while working: "What I believe started approximately 24 years ago (periodically) was now bothering my mind around the clock for about 7½ years (ongoing)." As for the nature of his disease or illness, appellant advised that he was awaiting his doctor's analysis. In supporting statements, he alleged that people bothered him by watching him when he worked and by standing behind him. Appellant was bothered physically and mentally. Each person that bothered him, he observed, did not seem to communicate as most people would. "I feel people who don't concentrate on their work and don't communicate are the ones who bother your mind." All this came about on July 20, 2001, he stated, when a supervisor asked him to stick to his time schedule. Appellant complained about people bothering and "sleep robbing." When he asked why he could not change his schedule, he was referred to the shipyard manager. Appellant stated: "My biggest complaint is those people who bother every day from watching you personally to bothering your mind 'every day.' In all cases, I have nothing to do with these people. I may have seen them a few times or I may have worked under them, but these people have bothered me for no apparent rhyme or reason."

Asked to describe the particular employment factors that he believed caused his condition, appellant wrote as follows:

"I have been bothered periodically by certain people for approximately 24 years throughout my career. These people have almost nothing to do with myself. I had not experienced such things as 'signing' and 'mind games' before, but it has been ever present on the installation...."

“I thought these things were a peculiarity of our USN, government service and tried to put it in the back of my mind. I remember exworkers make mention of this years prior to my start of employment.

“These unusual obstacles heightened about seven and a half years ago, when people started bothering [me] nearly around the clock. I believe these ‘voices’ come from people who practice following other people and the ‘perpetrators’ and ‘conspirators’ are people who ‘need professional help.’”

Appellant’s supervisor reported that these symptoms began long before appellant was assigned to his current shop and that he heard these familiar voices 24 hours a day.

In response to a request for additional information, appellant stated as follows:

“On the installation ... certain people always seem to be bothering others in the inside machine shop. Trade Theory lesson no. one was that you shouldn’t bother other people, but some people bother constantly.

“Some people stood in the back of you while you worked (mach shop) and did what is rumored to be ‘signing.’” This had to do with bothering your mind (mine). This continued periodically (signing) but worsen, when they awoke me from my sleep and seemed as a dream. This situation slowly became worse as more people got involved, some unknown.

“There is not much more information that I can send regarding my claim. My problem mainly has to do with my ‘indefinite restriction’ due to my physical injuries and ailments. When questions arose regarding my daily schedule could not be cleared up, I was brought to the attention of [the shipyard manager].”

Appellant indicated that sources of stress outside his federal employment were the same: “The same people bothered in the same way as they bothered at work. My following sports and music was largely spoiled by these people.” He stated that the problem worsened from periodic to daily and around the clock for the past seven and three-quarter years: “‘Sleep robbing’ where you are awakened and have trouble getting back to sleep, either awaking too early or too late. My prescription seems to help from 25 percent to 50 percent at night, but I am still bothered during the days. The dosage ... has been doubled at bedtime.”

On August 8, 2001 Dr. William P. Sheehan, a general clinical psychiatrist, reported that appellant was hospitalized from May 29 to June 1, 2001 with a diagnosis of psychosis, not otherwise specified. He was taking psychotropic medication and apparently had experienced auditory hallucinations for 24 years, but had never before seen a psychiatrist. Dr. Sheehan reported that it was possible appellant suffered from schizophrenia or some other psychiatric condition. He referred appellant to a psychologist.

On August 21, 2001 Dr. Joan H. Koff, a licensed clinical psychologist, related appellant’s history of injury. She noted, among other things, that appellant’s supervisor had asked him to maintain a fixed schedule from 6:30 a.m. to 3:00 p.m. This occurred three or four months ago. Appellant previously was able to work earlier and leave work earlier. Although he was currently

adjusted to the schedule, initially he was reluctant to have a fixed work schedule because of his numerous medical appointments for both industrial and nonindustrial health-related problems. Dr. Koff gave a principal diagnosis of psychotic disorder, not otherwise specified; work-related stress; and rule out schizophrenia. She stated that “[appellant’s] claim for industrial injury is related possibly to change of work schedule as mentioned.” He was likely to respond in a peculiar manner to workplace stress or any other stress: “Caution is advised in making changes in his work regimen.” Dr. Koff added that it would be useful for the employer to inform appellant’s medical providers of any changes to his work status “so that this can be worked out with him and they can be accepted by him.”

In a decision dated July 18, 2002, the Office of Workers’ Compensation Programs denied appellant’s claim for compensation benefits on the grounds that the evidence failed to establish that he sustained an emotional or psychiatric condition as a result of compensable factors of employment. The Office stated a review of appellant’s allegations revealed none that were established as having occurred.

Appellant requested a review of the written record. He explained that he filed a claim because his employer could not tell him what to do about being bothered and sleep deprived for so long a period of time. Appellant stated:

“I never stated that I developed an emotional condition and treatment from supervisors and coworkers caused me to develop work-related stress. This might be partly true in the parent shop (X-31). At the current ship (X-55), I was working in a since demolished building and this was not the case. Although here the bothering by voices started on a daily basis. Now in the same shop, but different building the situation seems improved.”

After addressing other claims for physical injuries, appellant further stated:

“Although I have no proof of my allegations, I am requesting a review of the written record because I had been bothered for so long and by people I did not know. This had a negative effect on my work as a machine hand and had interfered with my daily life.... I believe the main problem is I have been bothered by voices who I believe to be certain people who have worked in the shipyard and who may have retired. They have bothered me periodically for 25 plus years.

“The main problem is that several people or voices have bothered ‘around the clock’ for the past 10 plus years. These are people that I do not know well. I may have met them, worked with or just seen in and out of the shipyard. The trouble is sleep robbing or being awakened from sleep by a few people or voices. The [psychotropic medication] prescribed allows me to sleep at night but the dosage and dieting has left me very sleepy and has given me trouble awakening when desired.”

On January 7, 2002 Dr. Babu Subramaniam, a consulting neurologist, related appellant’s history of present illness and findings on examination. He diagnosed subjective chronic/long-

standing symptoms of auditory hallucinations, probably relating to appellant's underlying psychiatric illness/chronic schizophrenia. Dr. Subramaniam stated: "Given the history of multiple head trauma in his childhood, will attempt to exclude focal structural changes in the central nervous system."

In a decision dated July 10, 2003, an Office hearing representative affirmed the denial of appellant's claim on the grounds that the evidence did not establish a compensable factor of employment.

The Board finds that appellant has not met his burden of proof to establish that his emotional condition is causally related to his federal employment.

The Federal Employees' Compensation Act provides that the United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty.¹ The injury must occur at a time when the employee may reasonably be said to be engaged in his master's business, at a place where he may reasonably be expected to be in connection with his employment and while he was reasonably fulfilling the duties of his employment or engaged in doing something incidental thereto. The injury must also have a causal connection to the employment, either by precipitation, aggravation or acceleration.² Appellant filed a claim for workers' compensation benefits under the Act and, therefore, has the burden of proof to establish the essential elements of his claim by the weight of the reliable, probative and substantial evidence.³

Appellant has not met his burden of proof. As he explained, appellant has not alleged that supervisors or coworkers caused him to develop an emotional condition or work-related stress. Instead, he complained that he was bothered by voices-auditory hallucinations and according to the medical evidence, he was diagnosed with psychosis or psychotic disorder, not otherwise specified. Although these voices apparently bothered him while he was in the course of his employment, this alone is insufficient to establish that he is entitled to workers' compensation benefits. The injury must also have a causal connection to his federal employment. The mere fact that a condition manifests itself or worsens during a period of federal employment raises no inference of causal relationship between the two.⁴ A mere temporal relationship with a period of employment is insufficient to establish a causal relationship.

Appellant does not allege that his diagnosed psychosis is causally related to his federal employment. Dr. Koff included work-related stress among her diagnoses and stated that

¹ 5 U.S.C. § 8102(a). The Act defines "injury" to include, in addition to injury by accident, a disease proximately caused by the employment. *Id.* at § 8101(5).

² See *Eugene G. Chin*, 39 ECAB 598 (1988); *Clayton Varner*, 37 ECAB 248 (1985); *Thelma B. Barenkamp* (*Joseph L. Barenkamp*), 5 ECAB 228 (1952).

³ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

⁴ *Steven R. Piper*, 39 ECAB 312 (1987). For example, the fact that a heart attack occurred during a period of employment is not, in itself, sufficient to establish that the work caused or contributed to the heart attack. *Mrs. Anna N. Dittebrandt* (*Major Theodore E. Dittebrandt*), 6 ECAB 554 (1954).

“[appellant’s] claim for industrial injury is related possibly to change of work schedule as mentioned.” The Board has held that a change in an employee’s duty shift maybe a factor of employment to be considered in determining if an injury has been sustained in the performance of duty,⁵ but in this case, there was no change in appellant’s duty shift: the supervisor merely asked appellant to keep his work hours fixed.⁶ Appellant was only initially reluctant because of his numerous medical appointments, but he adjusted and claimed no emotional injury as a result of his supervisor’s request. Further, Dr. Koff’s opinion that appellant’s claim was related “possibly” to a change in work schedule is speculative and of little probative value.⁷

The evidence in this case fails to establish that appellant’s emotional condition is causally related to his federal employment. For this reason, he has not met his burden of proof to establish that he is entitled to workers’ compensation benefits.

The July 10, 2003 decision of the Office of Workers’ Compensation Programs is affirmed.

Dated, Washington, DC
November 12, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁵ *Charles J. Jenkins*, 40 ECAB 362 (1988).

⁶ *Cf. Gloria Swanson*, 43 ECAB 161 (1991) (the employing establishment merely requested that the claimant return to part-time limited duty during the latter working hours of her existing schedule).

⁷ *See Philip J. Deroo*, 39 ECAB 1294 (1988) (although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee’s complaints “could have been” related to his work injury was speculative and of limited probative value).