

¹ Docket No. 2003-1507 (issued March 15, 2004).

compensable factors of employment. The Office had accepted that appellant sustained “depressive/adjustment reaction” due to a June 1996 threat of violence by a mail handler against him and the employing establishment and a March 1998 petition signed by 30 employees against appellant due to his intimidating and harassing management style.² The Board also affirmed that portion of the July 24, 2002 decision finding that appellant was not entitled to compensation for wage loss for the period September 27 to December 31, 2001 due to the lack of supportive medical evidence. The facts and circumstances of the case are set forth in the prior decision and are hereby incorporated by reference.

On remand, the Office reinstated appellant’s compensation benefits on April 16, 2004. It referred him for an impartial medical examination with Dr. Roger B. Vogelfanger, a Board-certified psychiatrist, together with a statement of accepted facts and questions to be addressed. The conflict in medical opinion evidence arose between appellant’s treating physician, Dr. Antoine Jean-Pierre, a Board-certified psychiatrist, who reported continuing employment-related disability and the Office’s second opinion examiner, Dr. Melvin L. Goldin, a Board-certified psychiatrist, who found that appellant’s adjustment disorder with work inhibition and narcissistic personality disorder symptoms were not related to compensable work factors.

By report dated October 7, 2004, Dr. Vogelfanger interviewed appellant, reviewed his history and psychological testing results and listed the diagnoses as depressive disorder, not otherwise specified, alcohol abuse, narcissistic personality disorder and hypertension. He recommended that appellant have additional psychiatric care due to his problem with alcohol abuse. Dr. Vogelfanger stated that alcohol abuse could be a factor in appellant’s hypertension and in his current level of impairment and difficulties at his office. Based on the available evidence, appellant’s diagnosed psychological disorders were not causally related to the accepted compensable factors of his employment. Dr. Vogelfanger noted that both Dr. Jean-Pierre and Dr. Goldin found that appellant definitely had a narcissistic personality disorder and that Dr. Goldin felt it really was the whole cause of appellant’s problems. Dr. Vogelfanger opined that appellant’s emotional problems were the result of alcohol abuse and his narcissistic personality traits and not a condition arising from his employment. He found that his alcohol abuse and narcissistic personality traits created the problems he encountered at work, which were described as the negative reactions of employees and his difficulty in relating to supervisors. Dr. Vogelfanger concluded that the emotional reaction was not a condition of appellant’s work or employment, but was the result of the way he interacted at work. He opined that it was appellant’s own inability to accept the fact that most of his problems were created by himself rather than caused by individuals at the employing establishment that was the cause of his conditions. Dr. Vogelfanger opined that, with appellant’s atypical depression, his alcohol abuse and his rationalization of all his inadequacies, appellant’s psychiatric problems had progressed and that it was unlikely he was employable in any type of occupation.

² On April 13, 1998 appellant, then a 46-year-old station manager, filed an occupational disease claim alleging that he developed an emotional condition due to stress from a petition filed against him by employees in March 1998 alleging that he managed his operation through harassment, intimidation and threats of discipline. Additionally, he alleged that in June 1996 a mail carrier assigned to his station threatened to commit violence and owned several guns.

Included in Dr. Vogelfanger's report, were the results of psychological testing by Dr. Vance Steward, Ph.D., a clinical psychologist, who reviewed extensive testing and recommended that appellant enter an alcohol detoxification program and undergo psychiatric follow-up. On October 7, 2004 he also completed a work capacity evaluation stating that appellant was unable to work due to his atypical depression and alcohol abuse.

By letter dated November 1, 2004, the Office advised appellant that it proposed to terminate his compensation benefits based on the impartial medical specialist's report, which established that his continuing emotional condition was not causally related to the two accepted compensable factors of his employment. The Office advised appellant that, if he disagreed with this proposed termination action, he had 30 days within which to submit additional evidence or argument relevant to the issue of the case. Appellant was also advised that after 30 days the termination would be made final. The Office indicated that it had paid wage-loss compensation from July 21 to August 31, 1999 and October 1 to 29, 1999. It noted that appellant returned to work on November 1, 1999 but stopped on November 12, 1999 and, on January 10, 2000, was placed on administrative leave to February 2, 2001 for making a threatening remark.

In response appellant submitted a November 20, 2004 letter disputing the proposed termination and referencing a July 26, 2000 letter from the Office stating that there was no job at the employing establishment commensurate with his limitations. He argued that the Office had failed to find him suitable work and, therefore, could not terminate his compensation.

By decision dated December 21, 2004, the Office terminated appellant's compensation benefits as of that date on the grounds that he was no longer entitled to wage-loss compensation or medical benefits. With regard to his contention that it had failed to find him suitable work, the Office determined that this contention was irrelevant as the issue of the case was a medical one.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.³ 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.⁴ The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for wage loss.⁵ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition that require further medical treatment.⁶

³ *David W. Pickett*, 54 ECAB 272 (2002); *Harold S. McGough*, 36 ECAB 332 (1984).

⁴ *Id.*; see also *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979).

⁵ *Daniel F. O'Donnell, Jr.*, 54 ECAB 456 (2003); *Marlene G. Owens*, 39 ECAB 1320 (1988).

⁶ *Id.*; see also *Calvin S. Mays*, 39 ECAB 993 (1988); *Patricia Brazzell*, 38 ECAB 299 (1986); *Amy R. Rogers*, 32 ECAB 1429 (1981).

The Federal Employees' Compensation Act, at 5 U.S.C. § 8123(a), in pertinent part, provides: "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."

Where there exists a conflict of medical opinion and the case is referred to an impartial specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, is entitled to special weight.⁷

ANALYSIS

In this case, the Office properly obtained an impartial medical opinion from a qualified medical examiner, based upon a complete and accurate factual and medical history. The Office found that Dr. Vogelfanger's impartial medical report was well rationalized and, therefore, was entitled to special weight in establishing that appellant's continuing emotional conditions were no longer related to compensable factors of his employment. Dr. Vogelfanger concluded that appellant's employment-related disability had ceased, that he had no injury-related residuals and that any continuing psychological condition was not related to appellant's federal employment. He explained that appellant's current emotional condition was due to alcohol abuse and a narcissistic personality which dictated how he interacted with other individuals at work. The Board finds that Dr. Vogelfanger's report constitutes the special weight of the medical opinion evidence of record and that the Office properly met its burden of proof to terminate appellant's compensation benefits as of December 21, 2004.

Appellant's contention, in response to the proposed notice of termination, that there was no job at the employing establishment commensurate with his limitation is irrelevant to the medical issue of whether his employment-related conditions had ceased. As noted, the report of the impartial medical specialist attributed appellant's on going disability to his underlying conditions and not to the accepted work factors. Thus, the Office met its burden of proof to terminate compensation benefits.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate both appellant's wage-loss compensation and his health benefits, based on the thorough and well-rationalized findings of the impartial medical specialist.

⁷ *Aubrey Belnavis*, 37 ECAB 206, 212 (1985).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 21, 2004 be affirmed.

Issued: February 10, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board