

On July 2, 2002 appellant, then a 49-year-old pharmacy technician, filed a notice of occupational disease alleging that on April 5, 2002 she realized that her fibromyalgia and bursitis were exacerbated due to long hours standing on cement floors, as well as stress due to short staffing and work overload.

In a letter dated July 9, 2002, the Office requested additional factual and medical evidence regarding appellant's diagnosed conditions. She responded and attributed her conditions to additional work factors including reaching above her head, pushing and pulling carts, bending, stooping and lifting as well as repetitiously opening bottles. By decision dated September 3, 2002, the Office denied appellant's claim finding that the medical evidence was insufficient to establish a causal relationship between her diagnosed conditions and the implicated employment factors.

Appellant requested a review of the written record on September 27, 2002. By decision dated February 5, 2003, the hearing representative affirmed the Office's September 3, 2002 decision finding that appellant had not established a causal relationship between her condition and her employment.

LEGAL PRECEDENT

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. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹

ANALYSIS

In this case, appellant attributed her diagnosed conditions of fibromyalgia and bursitis to factors of her federal employment. She attributed her conditions to both physical duties and emotional stress resulting from alleged employment factors. Appellant stated that her position required her to stand on cement for long periods of time, to reach over her head, to push and pull carts and to bend, stoop, lift and repetitiously open bottles.

Appellant's supervisor denied that appellant was required to stand on cement floors for long periods of time, noting that there were chairs provided and that the area was both carpeted and that anti-fatigue mats were provided.

Appellant did not submit any medical evidence attributing her diagnosed condition to the physical requirements of her position. On July 1, 2002 Dr. Uzma Khan, a Board-certified internist, noted that appellant attributed her condition to work. He stated, "[l]ess work hours and less standing hours are definitely recommended in patients with fibromyalgia...." Although

¹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

Dr. Khan noted appellant's alleged work duties of standing long hours, he did not specifically attributed appellant's diagnosed condition to this work duty. Without an affirmative statement regarding the causal relationship between appellant's diagnosed condition and her employment duty of standing, this report is not sufficient to meet appellant's burden of proof.

In a report dated April 5, 2003, Dr. Khan noted that appellant did a lot of standing at work and that appellant reported that her symptoms were worse at the end of the day. He did not offer any opinion on the causal relationship between appellant's diagnosed conditions of fibromyalgia, degenerative arthritis right knee and bilateral trochanteric bursitis and standing at work. Without an opinion on the causal relationship between appellant's diagnosed condition and the alleged employment duties, this report is not sufficient to meet appellant's burden of proof.

Appellant also attributed her increased symptoms of fibromyalgia to work stress. She specifically alleged that she was overworked due to increased workload and short staffing. Appellant alleged that the amount of prescriptions being filled locally at the window for immediate pick-up had increased drastically and outside mailings continued. She further stated that technicians were now required to fill prescriptions, a new duty and that the additional hiring of staff did not aid in her work duties. Appellant stated that there were six technicians currently working either full or part time and that one technician had retired in 2001 and was not replaced. She asserted that two technicians were left to do all the work that used to be done by many others.

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. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.² Emotional reactions to situations in which an employee is trying to meet her position requirements are compensable.³ Employment factors which are covered under the Federal Employees' Compensation Act include an unusually heavy workload if substantiated.

Appellant's supervisor, Daniel Aderman, disputed that appellant was overworked and that the employing establishment was short staffed. He stated, however, that the pharmacy was recruiting for a pharmacy technician during the period in question. Mr. Aderman further noted that the additional duties of filling the ward stock and delivery to floors was accomplished two out of every four weeks worked. He stated that appellant worked 0.75 hours of overtime from January 1 to June 17, 2002. Mr. Aderman stated that there was no increased workload for the technicians which had not been addressed by staff. He noted that technicians no longer entered

² *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

³ See *Trudy A. Scott*, 52 ECAB 309 (2001); *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

prescriptions, that the inpatient workload had decreased and an additional technician for reports had been added who also performed other duties when fellow employees were on leave. Finally, Mr. Aderman stated that the additional technician and reduction in other duties had allowed the pharmacy to remain current in the additional BCMA labeling duties.

Although appellant alleged that she was overworked due to staff shortages and changing work duties, her supervisor denied this allegation and appellant did not submit any corroborating evidence to substantiate that she was overworked. Due to the lack of evidence supporting appellant's claim of overwork, she has not established this compensable factor of employment.

As appellant has not established any compensable employment factors regarding her claim for work-related stress, the Board need not consider the medical evidence of record addressing appellant's claim that work-related stress caused or contributed to her diagnosed conditions of fibromyalgia.⁴

CONCLUSION

Appellant also failed to substantiate a compensable employment factor of overwork and, therefore, failed to establish her claim that work-related stress caused or contributed to her diagnosed conditions of fibromyalgia and bursitis.

⁴ See *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

ORDER

IT IS HEREBY ORDERED THAT the February 5, 2003 and September 3, 2002 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Issued: February 17, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member