

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDWARD ANDERSON and DEPARTMENT OF THE NAVY,
LONG BEACH NAVAL SHIPYARD, Long Beach, Calif.

*Docket No. 96-1335; Submitted on the Record;
Issued August 13, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs met its burden of proof in terminating appellant's compensation effective April 2, 1995.

In the present case, the Office accepted that appellant sustained atypical depression causally related to factors of his federal employment. Appellant began receiving compensation from December 19, 1980, the date of retirement from federal employment. By letter dated December 9, 1994, the Office advised appellant that it proposed to terminate his compensation on the grounds that the medical evidence established that he was no longer disabled or in need of medical care as a result of his employment injury. The Office found that the weight of the medical evidence was represented by a second opinion referral psychiatrist, Dr. John Hochman.

In a decision dated March 17, 1995, the Office terminated appellant's compensation effective April 2, 1995.

The Board has reviewed the record and finds that the Office met its burden of proof in terminating appellant's compensation in this case.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation. After it has been determined that an employee has disability causally related to his employment, the Office may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.¹

In this case, the Office found that the weight of the evidence was represented by the second opinion psychiatrist, Dr. Hochman, who submitted a report dated October 24, 1994. Dr. Hochman provided a history, reviewed medical records, and results on examination. He opined that appellant had no current disability causally related to his federal employment.

¹ *Patricia A. Keller*, 45 ECAB 278 (1993).

Dr. Hochman concluded that appellant had “long since recovered from emotional reaction to past work stressors.”

The Board finds that Dr. Hochman’s opinion represents the weight of the medical evidence in this case. He provided a thorough report with an unequivocal opinion that appellant no longer continued to have an employment-related emotional condition. On the other hand, the medical evidence from the attending psychologist, Dr. Stan Silverstein, was of diminished probative value in that it lacked detail and a reasoned opinion on the issue presented. In a report dated February 1, 1994, Dr. Silverstein opined that appellant’s “current psychiatric disability was resultant not only from the fall at work in 1980. Although that event triggered the decompensations, there were many preexisting conditions and ongoing work stressors which cumulatively led to and continue to result in inability to function occupationally on a regular basis.” Dr. Silverstein did not provide any additional history or explanation, and when asked by the Office for a supplemental report, provided only a note dated March 22, 1994, which stated, “I do not consider myself an expert as to which of the precipitating and causative events of this disability are most contributory to any greater degree that I have already attested.” He does not provide a complete report nor a reasoned opinion that appellant continued to have an emotional condition causally related to compensable work factors.

As noted above, it is the Office’s burden of proof to terminate compensation. The Board finds that the weight of the evidence was represented by the second opinion referral physician and therefore the Office has met its burden of proof in terminating compensation in this case.

The decision of the Office of Workers’ Compensation Programs dated March 17, 1995 is affirmed.

Dated, Washington, D.C.
August 13, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member