

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VALJEAN M. SATTERWHITE and DEPARTMENT OF JUSTICE,
FEDERAL CORRECTIONAL INSTITUTION, Florence, Colo.

*Docket No. 97-1394; Submitted on the Record;
Issued April 5, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has any continuing disability causally related to her accepted emotional condition on or after July 12, 1993.

The Board has duly reviewed the case on appeal and finds that appellant does not have any continuing disability on or after July 12, 1993 causally related to her accepted emotional condition.

Appellant filed a claim on July 12, 1993 alleging that she developed an emotional condition due to factors of her federal employment. The Office of Workers' Compensation Programs denied appellant's claim by decision dated November 12, 1993. Appellant requested an oral hearing and by decision dated March 22, 1995 and finalized March 31, 1995, the hearing representative remanded appellant's claim for additional development by the Office. By decision dated July 25, 1995, the Office accepted that appellant had sustained a temporary aggravation of her underlying emotional condition ceasing on July 12, 1993. Appellant, through her attorney requested reconsideration on July 19, 1996. By decision dated January 21, 1997, the Office denied modification of its July 25, 1995 decision.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.¹ 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.² Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.³ To

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁴

In this case, the Office properly accepted that appellant had substantiated factors of employment based on the corroborating statement of her supervisor. The Office accepted that appellant was called into her supervisor's office in January 1993 to discuss an allegation that she had a disagreement with the duty officer with regard to excessive breaks. The Office also accepted that appellant's supervisor, Captain Frederick Murillo, called her everyday she used sick leave to determine when she would return. Captain Murillo visited appellant's home on one occasion when she was using sick leave to attempt to encourage her return to work in order that she might participate in an ongoing investigation. The Office also accepted that the Warden and Assistance Warden both expressed a dislike for appellant to Captain Murillo and the Warden stated that he never wanted appellant running a shift again.

In support of her claim, appellant submitted a report from Dr. Annette Long, a licensed psychologist, dated July 13, 1993, who reviewed appellant's allegations and test results and diagnosed adjustment disorder, somatoform pain disorder and rule out obsessive compulsive disorder. Dr. Long stated, "It is my opinion that [appellant's] current mental state has been aggravated if not caused by her experience of harassment at work. The precipitating cause for this woman's adjustment reaction is her experience of discrimination from her immediate supervisor and lack of support from the Warden."

In a report dated December 17, 1993, Dr. C. Stephen Bonney, a psychiatrist, noted appellant's history of cumulative incidents of sexual harassment and verbal abuse on the job. He diagnosed major depression with psychotic features, conversion disorder and personality disorder with histrionic features. Dr. Bonney opined that appellant developed a psychosis as well as conversion reaction from the alleged event.

These reports do not provide a detailed history of injury including the factors of employment accepted by the Office and an opinion of a physician that these factors caused appellant's underlying psychiatric condition along with medical rationale in support of that opinion. Therefore, these reports do not establish disability due to the accepted condition on or after July 12, 1993.

The Office referred appellant, a statement of accepted facts and a list of specific questions to Dr. Phillip Ballard, a Board-certified psychiatrist. In a report dated May 9, 1995, Dr. Ballard diagnosed major depressive disorder, severe with psychotic feeling. He opined that appellant's major depressive disorder was not related to the compensable work factors, but that the factors aggravated an existing emotional condition. In response to an Office query, Dr. Ballard again stated on June 15, 1995 that the accepted factors did not cause her condition. He stated that the factors were not a permanent cause of aggravation to her condition, but were temporarily aggravating. Dr. Ballard explained, "The first two [factors] allowed [appellant] to project and focus her attention to issues that were not germane to resolution of her depression. These aggravated her condition and prevented her from directly dealing with the depression. In

⁴ *Id.*

order to directly deal with the depression she had to eliminate these items as focuses of projection.” In response to a request from the Office, Dr. Ballard stated that the duration of appellant’s disability due to the compensable factors was 20 weeks from February 24, 1993. He stated, “The patient in 20 weeks of psychotherapy should be able to shift focus from these events to responsibility for her care and daily activities.”

The Board finds that the Office properly relied on the detailed and well-rationalized reports of Dr. Ballard, which were based on a proper history of injury including the accepted factors of employment. Dr. Ballard concluded that appellant’s underlying condition was temporarily aggravated by her employment factors and that the aggravation ceased within 20 weeks or 5 months following her injury. Therefore, the Office met its burden of proof in establishing that appellant’s injury ceased on July 12, 1993.

Following the Office’s July 25, 1995 decision, appellant submitted a report dated July 17, 1996, from Dr. Gregory P. Caesar, a psychiatrist. Dr. Caesar noted that appellant had no record for significant depressive disorder prior to 1992. He concluded, “It is our opinion that the depressive disorder was precipitated by the events occurring in 1992.”

This report is not sufficient to establish continuing disability due to the accepted employment factors as Dr. Caesar did not provide a history of injury nor medical rationale in support of his opinion that appellant’s underlying condition was caused by her employment. The Board has held that the mere manifestation of a condition during a period of employment does not raise an inference that there is a causal relationship between the condition and the employment. Neither the fact that the condition became apparent during a period of employment nor the belief that the employment caused or aggravated a condition is sufficient to establish causal relationship.⁵

The Office also referred appellant for a second opinion evaluation with Dr. William W. Dahlberg, a Board-certified psychiatrist. In a report dated January 8, 1997, Dr. Dahlberg noted appellant’s employment incidents and medical history and diagnosed major depression, recurrent, severe with psychosis, adjustment disorder with mixed problem of emotion and conduct and possible atypical bipolar disorder. He stated that the compensable factors did not cause or precipitate and illness of the magnitude experienced by appellant but that to some extent, they may have aggravated a preexisting condition. Dr. Dahlberg stated, “It appears to me that there was temporary aggravation producing emotional problems which themselves could have been corrected long ago, were they not embedded in a much more pervasive series of ... problems as repeatedly diagnosed by the various qualified mental health providers. Since this claimant has been unemployed for several years, the temporary aggravation would have long ago ceased if aggravation is understood as being the behavior of others as described in the three compensation factors of employment.”

As there is no rationalized medical opinion evidence supporting appellant’s claim for continuing disability on or after July 12, 1993, the Board finds that the Office properly denied her claim.

⁵ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

The decision of the Office of Workers' Compensation Programs dated January 21, 1997 is hereby affirmed.

Dated, Washington, D.C.
April 5, 1999

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member