

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WANDA MOOREHEAD and DEPARTMENT OF JUSTICE,
FEDERAL CORRECTIONAL INSTITUTE, Fort Dix, N.J.

*Docket No. 98-2544; Submitted on the Record;
Issued April 14, 1999*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant's accepted condition of temporary aggravation of adjustment disorder ceased by September 28, 1995.

The Board has given careful consideration to the issue involved, the contentions of appellant on appeal and the entire case record. The Board finds that the decision of the Office hearing representative, dated and finalized on April 7, 1998, is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.

The decision of the Office of Workers' Compensation Programs dated April 7, 1998 is hereby affirmed.

Dated, Washington, D.C.
April 14, 1999

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

Memorandum: To the Board

From: AKG

Date: February 5, 1999

Re: Docket No. 98-2544, Wanda Moorehead

In the present case, the Office accepted that appellant was overworked on May 17, 1994 (a day when 5 of appellant's 7 co-workers were absent from work) and that on this day appellant sustained temporary aggravation of adjustment disorder. Appellant's treating therapist had reported that appellant had first sought treatment for depression some six months prior to May 17, 1994. Appellant has made clear that her only claim is that she was overworked on May 17, 1994, and not that she had sustained an occupational disease during her employment over an extended period of time.

The Office accepted appellant's claim based upon the September 28, 1995 second opinion report of Dr. Newman, who opined that appellant had sustained a temporary aggravation of her adjustment disorder, but that she was no longer disabled as of the date of the examination. Dr. Newman explained that because she had not previously examined appellant, she could not exactly determine when the temporary aggravation causing disability had ceased. An Office medical adviser reviewed the case record and opined that based upon the DSM, the accepted condition would have ceased within six months. The Office initially found that based upon the Office medical adviser's opinion, appellant's accepted condition ceased six months after May 17, 1994, that is by November 16, 1994.

In August 1995, an Office hearing representative found that as the medical adviser had not examined appellant, and had not specifically relied on appellant's history, he could not apply the DSM in a general manner to determine that date that disability ceased. The hearing representative remanded the case for another second opinion evaluation to determine the date that disability ceased. The Office thereafter did not refer appellant for another second opinion evaluation, but found that as Dr. Newman, the physician upon whose report the Office had accepted appellant's claim, had stated that appellant's disability had ceased at least by the time of Dr. Newman's examination, the date of the examination would be used as the date that disability ceased. The Office granted benefits through September 28, 1995, the date of Dr. Newman's examination.

Appellant again requested review by an Office hearing representative. By decision dated April 7, 1998, the hearing representative found that the Office had properly determined based upon the medical evidence of record that appellant's disability had ceased by September 28, 1995. The hearing representative also noted that appellant was not currently alleging that she was in fact disabled, but that she feared a recurrence of disability if she returned to the employing establishment. (As an aside note that appellant had moved from NJ, the site of the employing establishment, to the LA California area, therefore complicating any possible return to the employing establishment.) There is no evidence of record that appellant was disabled after September 28, 1995. The hearing representative very carefully addressed all of the factual and legal issues in this case. Nothing could be added to this record by a full d&o review.

Dated, Washington, D.C.
April 14, 1999

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member