U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KATHERINE WEBB TAUBITZ and U.S. POSTAL SERVICE, POST OFFICE, Royal Oak, MI

Docket No. 97-2435; Submitted on the Record;
Issued August 17, 1999

DECISION and ORDER

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

The issue is whether appellant's June 21, 1995 claim for compensation benefits was timely filed.

Section 8122 of the Federal Employees' Compensation Act[1] states that "An original claim for compensation for disability or death must be filed within three years after the injury or death." Subsection (b) of this section states that in latent disability cases, the time limitation does not begin to run until the claimant is aware, or should have become aware, of a relationship between her employment and her injury.

In the present case, appellant filed a claim on June 21, 1995 alleging that on November 2, 1991 she first became aware that she had sustained stress because of management's constant interference with her job. Appellant had already left her federal employment by November 1991. There is no dispute over the fact that appellant did not file a claim within three years after the alleged injury.[2] Appellant's claim still would be regarded as timely if her "immediate superior had actual knowledge of the injury or death within 30 days sufficient to put the supervisor reasonably on notice of an employment injury." This provision removes the bar of the three-year time limitation if met.[3] In reviewing the case record, the Board notes that the only piece of evidence which would have provided any notice of appellant's emotional condition claim was the November 21, 1990 note from Dr. Diane A. Culik addressed: "To whom it may concern." This note did not provide any details of appellant's alleged emotional condition claim, but did make reference to "job-related stress" and recommended a three-month leave of absence. This note does not constitute the type of evidence necessary to establish notice because it is

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[1] 5 U.S.C. § 8122.

[2] *John Giovanni Carrollo*, 41 ECAB 778 (1990).

[3] *Id.*

addressed to "Whom it may concern," rather than to appellant's immediate supervisor, and there is no evidence of record that this note was timely received by appellant's immediate supervisor. Other documents of record indicate that on November 26 and December 6, 1990 and January 14, 1991, absent without leave actions were taken against appellant, which would indicate that this medical note, requesting a three-month leave of absence, was not received by the employing establishment. Furthermore, in claims for emotional conditions, the Board has previously held that medical evidence which merely notes stress or tension at work, without a description of any specific employment incidents to which appellant could attribute the development of stress, is not sufficient to impute knowledge to the supervisor of an on-the-job injury.[4] This medical report did not describe any specific employment incident to which appellant's supervisor could have imputed an on-the-job injury.

The Board has given careful consideration to the issues involved, the contentions of appellant on appeal and the entire case record. The Board finds that the decision of the Office of Workers' Compensation Programs' hearing representative, dated and finalized on June 12, 1997, is in accordance with the facts and the law in this case. The Board hereby adopts the findings and conclusions of the hearing representative.

The decision of the Office of Workers' Compensation Programs dated June 12, 1997 is hereby affirmed.

Dated, Washington, D.C.
August 17, 1999

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

[4] *Id.*