

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAUL G. HERNANDEZ and DEPARTMENT OF THE AIR FORCE,
TACTICAL AIR COMMAND, HOLLOMAN AIR FORCE BASE, NM

*Docket No. 99-501; Submitted on the Record;
Issued August 5, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation effective September 15, 1998 on the grounds that he had no disability due to his April 1, 1989 employment injury after that date.

The Board finds that the Office met its burden of proof to terminate appellant's compensation effective September 15, 1998 on the grounds that he had no disability due to his April 1, 1998 employment injury after that date.

Under the Federal Employees' Compensation Act,¹ once the Office has accepted a claim it has the burden of justifying termination or modification of compensation benefits.² The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.³ The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁴

On April 1, 1989 appellant, then a 52-year-old firefighter, sustained depression because his coworkers verbally insulted him for not being able to work on the flight line due to his hearing loss. Appellant stopped work and the Office paid him appropriate compensation. By decision dated September 15, 1998, the Office terminated appellant's compensation effective September 15, 1998 on the grounds that he no longer had employment-related disability after

¹ 5 U.S.C. §§ 8101-8193.

² *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

³ *Id.*

⁴ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

that date. The Office based its termination on the opinion of Dr. Curtis Spier, a Board-certified psychiatrist to whom it referred appellant.

The Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized opinion of Dr. Spier. In a report dated July 28, 1998, Dr. Spier determined that appellant no longer had disability due to the accepted employment injury.

The Board has carefully reviewed the opinion of Dr. Spier and notes that it has reliability, probative value and convincing quality with respect to its conclusions regarding the relevant issue of the present case. Dr. Spier's opinion is based on a proper factual and medical history in that he had the benefit of an accurate and up-to-date statement of accepted facts, provided a thorough factual and medical history and accurately summarized the relevant medical evidence. Moreover, Dr. Spier provided a proper analysis of the factual and medical history and the findings on examination, including the results of diagnostic testing, and reached conclusions regarding appellant's condition which comported with this analysis.⁵ Dr. Spier provided medical rationale for his opinion by explaining that appellant did not exhibit any objective signs of psychiatric illness or otherwise display disabling residuals of the accepted employment-related emotional condition. He diagnosed "major depression, substantially resolved" and indicated that appellant's continuing problems were due to his underlying, nonwork-related psychiatric condition. Dr. Spier indicated that, given the nature of the factors which caused the injury on April 1, 1989, appellant's employment-related condition would have resolved prior to the time of examination.

Appellant submitted a March 12, 1996 report in which Dr. Bernard Steinau, an attending physician specializing in psychiatry, indicated that his condition was essentially the same as it had been for the last several years. Dr. Steinau noted that appellant reported he had "little spells of depression" but was able to perform "minor work around his property." Dr. Steinau indicated that appellant was not being treated with medication. This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain a clear opinion that appellant continued to have disabling residuals of his employment-related emotional condition. Moreover, Dr. Steinau did not detail appellant's factual and medical history or provide adequate findings on examination.⁶ Nor did he provide medical rationale in support of his opinion on causal relationship.⁷

⁵ See *Melvina Jackson*, 38 ECAB 443, 449-50 (1987); *Naomi Lilly*, 10 ECAB 560, 573 (1957).

⁶ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

⁷ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value).

The decision of the Office of Workers' Compensation Programs dated September 15, 1989 is affirmed.

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

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member