U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BYRON J. BYSTROM and DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION, Tampa, FL

Docket No. 98-1112; Submitted on the Record;
Issued December 8, 1999

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant met his burden of proof in establishing that he sustained disability on or after August 28, 1997 causally related to his employment injury.

On May 8, 1997 appellant, then a 54-year-old air traffic controller, filed a claim alleging that he sustained an emotional condition causally related to his federal employment. Appellant noted on April 8, 1995 that he was working with a Piper Cherokee plane which crashed. The record indicates that following the April 8, 1995 incident, appellant was reassigned in his duties on September 3, 1995 and subsequently restricted by the employing establishment's flight surgeon in 1996. A determination of permanent medical disqualification was made by the flight surgeon on May 30, 1997.[1]

In a May 27, 1997 report, Dr. Randolph H. Hemsath, a Board-certified psychiatrist, reviewed appellant's employment history and the April 8, 1995 employment incident. Dr. Hemsath noted that following the incident, appellant returned to his home town in Minnesota and was arrested for driving while intoxicated. Appellant returned to work, where he was referred to an Employee Assistance Program and received psychiatric treatment. Dr. Hemsath diagnosed a major depression, and post-traumatic stress disorder. He recommended changes to appellant's medications and noted appellant would continue counseling. In a July 14, 1997 note, Dr. Hemsath noted that he had not placed any restrictions on appellant's activities.

By letter dated July 16, 1997, the Office of Workers' Compensation Programs advised appellant that his claim was accepted for a single episode of stress. Appellant was advised to submit medical documentation relating to his treatment to claim wage loss. Appellant subsequently filed a claim for compensation requesting wage loss beginning August 28, 1997.

[1] Appellant retired on disability effective August 28, 1997.

In response, appellant submitted an August 29, 1997 report from Ms. Jeanne R. Orphanidys, a licensed social worker. Appellant also submitted a September 8, 1997 CA-20 form from Dr. Hemsath, who noted that appellant was being treated for ongoing symptoms of depression and indicated by a checkmark "yes" that appellant's disability was causally related to his employment. He noted, however, that no limitations were placed on appellant's work activities but that treatment with prozac medication disqualified appellant from resuming his regular work.

By decision dated November 25, 1997, the Office rejected appellant's claim for compensation, finding that the medical evidence was not sufficient to establish that his disability for work was related to his federal employment.

The Board finds that appellant has failed to sustain his burden of proof to establish that he had any disability commencing August 28, 1997 casually related to his employment injury.

In the present case, the Office accepted that appellant underwent an episode of stress in his federal employment on April 8, 1995. Appellant continued in his employment until May 8, 1997 when he submitted a claim and indicated that he was disqualified from employment as of August 28, 1997, when he retired on disability.

Under the Federal Employees' Compensation Act, disability generally means the inability to earn the wage the employee was receiving at the time of injury.[2] Disability is not synonymous with physical impairment, which may or may not result in an incapacity to earn wages. An employee who has an impairment causally related to his or her federal employment but who nonetheless has the capacity to earn the wages received at the time of injury, has no disability as that term is used under the Act. When, on the other hand, the medical evidence establishes that the residuals of an employment injury are such that from a medical standpoint they prevent the employee from continuing in the employment, the employee is entitled to compensation for any loss of wage-earning capacity resulting from such incapacity for employment.[3]

Whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.[4] Medical evidence must be in the form of a reasoned opinion by a qualified physician based upon a complete and accurate factual and medical history of the employee whose claim is being considered. A physician's opinion on causal relationship between a claimant's disability and an employment injury is not dispositive simply because it is rendered by a physician. To be of probative value, the physician must provide rationale for the opinion reached. Where no such rationale is present, the medical opinion is of diminished probative value.[5] Rationalized medical opinion evidence is medical

[2] *Gregory A. Compton*, 45 ECAB 154 (1993).

[3] *See Clement Jay After Buffalo*, 45 ECAB 707 (1994).

[4] *Maxine J. Sanders*, 46 ECAB 835 (1995).

[5] *Jean Culliton*, 47 ECAB 728 (1996).

evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion must be based on a complete factual background and medical history and supported by rationale explaining the nature of the condition and those employment factors identified by the claimant.[6] A medical form report which merely checks a box "yes" with regard to whether a condition or disability is employment related is of diminished probative value.[7]

The medical evidence of record consists of several reports dated May 27 and July 14, 1997 from Dr. Hemsath, appellant's attending psychiatrist. He diagnosed a major depression and post-traumatic stress disorder, noting the April 8, 1995 employment incident. However, Dr. Hemsath's narrative reports do not contain sufficient medical rationale explaining how the April 8, 1995 incident caused or contributed to appellant's disability on or after August 28, 1997. While a September 8, 1997 CA-20 medical report noted that appellant's disability was employment related, this report lacks any rationale from Dr. Hemsath explaining the basis for his conclusion as marked on the form. Dr. Hemsath indicated that he did not place any restrictions on appellant's work activities, noting only that appellant's medication could disqualify him from resuming his employment. This medical evidence is not sufficient to meet appellant's burden of proof to establish that his disability commencing August 28, 1997 is due to residuals related to the April 8, 1995 employment incident.[8] For this reason, the Office properly found that appellant has not established that his disability on or after August 28, 1997 is related to his employment injury.

[6] *Charles E. Burke*, 47 ECAB 185 (1995).

[7] *Lester Covington*, 47 ECAB 539 (1996).

[8] The reports from Ms. Orphanidys, a social worker, are not probative on the issue as a licensed social worker is not a physician under the Act; *see Arnold A. Alley*, 44 ECAB 912 (1993).

The November 25, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
December 8, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Michael E. Groom
Alternate Member