

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KATHERINE E. ALBERT and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Biloxi, MS

*Docket No. 98-1615; Submitted on the Record;
Issued December 2, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant established that she sustained an emotional condition in the performance of duty.¹

On March 12, 1997 appellant, then a 37-year-old secretary, filed a claim for compensation alleging that her emotional condition was caused by factors of her federal employment. Appellant stated that on February 28, 1997 she was unable to report for work as she sustained panic attacks, was nervous, depressed, exhausted, had memory loss and cried. The employing establishment stated that appellant stopped work on February 28, 1997 and had not returned to work as of the date she filed her claim.

In a narrative received by the Office of Workers' Compensation Programs on April 8, 1997, appellant stated that her anxiety was caused by stress associated with an increase in workload due to an increase in staff of the extended care service. Appellant stated that in June 1996 the "Extended Care Service grew in size from 12 employees to 210 [employees]," but that no sufficient additional help was provided to her in spite of repeated attempts to address the issue with her supervisors, Carol Moran, business manager, and Dr. Salness. She stated that Ms. Moran asked her if she had a problem with her and if she wanted to be reassigned. Appellant indicated that her concerns were about her workload. She then stated that because of an office move she was a receptionist/secretary to three managers which caused an increase in her work load and made it difficult for her to accomplish her tasks as a result, she felt increased stress. Appellant then stated that she was accused of having started a rumor about Dr. Salness and Ms. Moran, which precipitated an attempt by Ms. Moran to have appellant removed from her position. She also stated that during Ms. Moran's vacation time that she attempted to fulfill her (Ms. Moran's) duties noting that Dr. Salness stated that he was Ms. Moran's back-up staff.

¹ The Board notes that subsequent to the Office's June 17, 1997 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

Appellant then noted that another staff employee repeatedly asked her if she could help her since she had nothing to do, but that Ms. Moran on one occasion stated that “there was no one to [help] her.” Appellant was finally able to get additional help in preparing her monthly report. She also noted that when she was having an increasingly difficult time with multiple work assignments, she sought a quiet place to do her work as an alternative to going home, but was told after one day of this that she was not to use an alternative office to do her work. By the end of February 1997 appellant had a panic attack due to frustrations with her work load.

On April 28, 1997 the Office referred appellant, along with a statement of accepted facts to Dr. John Hanson, appellant’s treating psychologist, for an opinion regarding whether he believed that appellant had sustained an emotional condition as a result of factors of her federal employment. The statement of accepted facts included the employing establishment’s reorganization, noting that appellant’s department increased in staff from 12 to 210 but that no additional clerical support staff had been provided and that appellant felt stress associated with her increased work load. The Office considered this incident to have occurred in the performance of duty. The Office noted that the allegations concerning a rumor circulating about appellant’s supervisors and appellant’s use of an alternative office to perform work not considered as arising in the performance of duty.

In a medical report dated May 27, 1997, Dr. Hanson stated that appellant had been followed up in the clinic for the prior two months and that she had sustained an adjustment disorder with psychological features “as result of her employment situation.” He noted that appellant reported the onset of “nervousness, anxiety, depression, sadness, feelings of hopelessness and helplessness, feelings of avoidance as well as sleep and appetite difficulties.” Dr. Hanson stated that appellant had been treated with “cognitive/behavioral therapeutic techniques which have been proven beneficial,” indicating that while appellant continued to feel anxiety she was able to continue her work after she had been transferred. He noted that appellant’s prognosis for recovery was good to excellent.

In a decision dated June 17, 1997, the Office denied appellant’s claim on the grounds that the evidence on file failed to establish fact of injury. The Office noted that appellant experienced the claimed employment factor, however, Dr. Hanson did not provide any discussion of what job duties caused or aggravated her condition.

The Board has duly reviewed the case record and finds that appellant has not established that she sustained an emotional condition in the performance of duty.

Workers’ compensation law does not apply to each and every injury or illness that is somehow related to an employee’s employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers’ compensation. Where the disability results from an employee’s emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees’ Compensation Act.² On the other hand, the disability is not covered where it results from such

² 5 U.S.C. §§ 8101-8193.

factors as an employee's fear of a reduction-in-force or her frustration from not being permitted to work in a particular environment or to hold a particular position.³

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding, which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁴ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁵

In this case, appellant attributed her emotional condition in part to the stress and anxiety she felt pertaining to an increased work load⁶ as well as other matters dealing with her relationship with her supervisors. The Office found that the record supported that appellant attributed her condition to her regular and specially assigned work duties.⁷ Therefore, the Office proceeded to review the medical evidence submitted in support of appellant's claim. Appellant's treating psychologist, Dr. Hanson, stated that appellant had sustained a psychological condition as a result of her employment situation. However, he failed to provide a rationalized medical opinion as to how the accepted employment factor caused appellant's emotional condition. Indeed, Dr. Hanson merely stated that appellant sustained an emotional reaction to her "employment situation," then described her condition, but failed to identify or define what he meant by her employment situation. His report failed to address how appellant's assigned work duties or the changes in her workload caused or contributed to her emotional condition. The Board has held that medical reports not containing rationale on causal relation are of diminished probative value and are generally insufficient to met appellant's burden of proof.⁸ In light of the vagueness and ambiguity of Dr. Hanson's report, the Board finds that appellant has not established that she sustained an emotional condition causally related to her federal employment. The Office properly denied her claim for compensation benefits.

³ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ See *Margaret S. Krzycki*, 43 ECAB 496 (1992).

⁵ *Id.*

⁶ See *Lillian Cutler*, *supra* note 3.

⁷ Other incidents concerned appellant's involvement an alleged rumor about her supervisors and her supervisor's denial of appellant's request to use an available office to conduct employment-related work. The Office determined that neither of these incidents occurred in the performance of duty.

⁸ *Arlonia B. Taylor*, 44 ECAB 591(1993).

The decision of the Office of Workers' Compensation Programs dated June 17, 1997 is hereby affirmed.

Dated, Washington, D.C.
December 2, 1999

George E. Rivers
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member