U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CECILIA M. TAUZIN and U.S. POSTAL SERVICE,
POST OFFICE, Port Allen, La.

Docket No. 96-1605; Submitted on the Record;
Issued March 3, 1999

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant's psychogenic myoclonus is causally related to her November 29, 1993 employment injury.

On an appeal on a related case, the Board, in a decision and order dated September 11, 1998, noted that the Office of Workers' Compensation Programs accepted that appellant's November 29, 1993 employment injury resulted in a right shoulder strain and a cervical strain. In that decision, the Board found that the evidence established that appellant's disability and need for medical treatment causally related to her November 29, 1993 employment injury ended by August 8, 1994, insofar as the physical effects of that injury were concerned.[1]

The present appeal concerns appellant's claim, filed on March 23, 1995, for an injury consequential to the November 29, 1993 motor vehicle accident. This consequential injury is variously referred to by appellant on the claim form as psychogenic myoclonus, stress reaction and conversion disorder. The Office denied this claim by decision dated November 7, 1995.

It is an accepted principle of workers' compensation law, and the Board has so recognized, that when a primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional conduct.[2] The subsequent injury is compensable if it is the direct and natural result of a compensable injury.[3] An employee who asserts that a second injury is a

[1] Docket No. 96-816.

[2] *Sandra Dixon-Mills*, 44 ECAB 882 (1993).

[3] *Frank Barone*, 30 ECAB 1119 (1979).

consequence of a prior employment-related injury has the burden of proof to establish that such was the fact.[4] This burden includes the necessity of submitting rationalized medical evidence.[5]

The Board finds that appellant has not met her burden of proof to establish that her psychogenic myoclonus is causally related to her November 29, 1993 employment injury.

In a report dated September 26, 1994, Dr. Joseph Jankovic, a Board-certified neurologist, diagnosed psychogenic myoclonus and psychogenic tics. Dr. Jankovic then stated, "The myoclonus and tics can be caused by Tourette's syndrome; however, there is no history of this disorder. It is more likely that this is a stress-related disorder." This report does not attribute appellant's condition to her November 29, 1993 employment injury, but rather to stress. In a report dated October 21, 1994, Dr. Steven J. Zuckerman, a Board-certified neurologist, stated that appellant agreed with him that she has psychogenic movement disorder. Dr. Zuckerman did not address the etiology of this condition. In a report dated October 24, 1994, Dr. John E. Wade, III, a psychiatrist, diagnosed a conversion disorder and noted, "[Appellant] reports that her symptoms first began after an on-the-job accident on November 29, 1993." This report does not contain an opinion from Wade on the question of whether appellant's conversion disorder is causally related to her November 29, 1993 employment injury.

One medical report does support causal relation. In a report dated August 11, 1995, on an Office form, Dr. Christine E. Angelloz, a clinical psychologist, diagnosed conversion disorder with seizures or convulsions. Dr. Angelloz answered "yes" to the form's question whether the condition found was caused or aggravated by an employment activity added, "Patient's psychogenic seizures and post-traumatic stress symptomatology began after Nov[ember] 29, 1993 work-related MVA [motor vehicle accident]." This report is insufficient to meet appellant's burden of proof. Without any explanation or rationale, the checking of a box on a form is generally insufficient to meet an employee's burden of proof.[6] In addition, an opinion that a condition is causally related to an employment injury because the employee was asymptomatic before the injury is insufficient, without supporting rationale, to establish causal relation.[7] Appellant has not met her burden of proof.

[4] *Margarette B. Rogler*, 43 ECAB 1034 (1992).

[5] *Fred Magnotta*, 23 ECAB 125 (1972).

[6] *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

[7] *Thomas D. Petrylak*, 39 ECAB 276 (1987).

The decision of the Office of Workers' Compensation Programs dated November 7, 1995 is affirmed.

Dated, Washington, D.C.
March 3, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member