

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PAUL R. CLOKE and DEPARTMENT OF DEFENSE,  
COMMISSARY STORE, New London, Conn.

*Docket No. 97-1847; Submitted on the Record;  
Issued March 10, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained an injury in the performance of duty.

In the present case, appellant filed a claim on January 28, 1997 alleging that he sustained a cerebrovascular accident casually related to stress in his federal employment. In a narrative statement dated February 11, 1997, appellant indicated that he believed the extra duties of supervising the produce department had an adverse effect on his hypertension. Appellant further indicated in a statement received on April 3, 1997 that he became acting produce manager of the commissary store in October 1996, and his duties included working with a computer program he was unfamiliar with, listening to complaints of employees and customers as a result of store remodeling, in addition to having to perform his normal duties of stocking produce and receiving orders.

In a decision dated April 9, 1997, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the medical evidence was insufficient to meet his burden of proof.

The Board has reviewed the record and finds that appellant has not established an injury in the performance of duty.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment.<sup>1</sup> To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder;

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<sup>1</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>2</sup>

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 illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>3</sup>

In the present case, appellant has alleged that he suffered stress at work, which resulted in an aggravation of hypertension and contributed to a cerebrovascular accident. Appellant has identified employment factors relating to the performance of his regular or specially assigned duties in this case, and the Office properly found that such factors would be compensable. In order to meet his burden of proof, appellant must also submit medical evidence which contains a reasoned opinion on causal relationship between a diagnosed condition and the identified work factors.

In a hospital discharge report dated January 2, 1997, Dr. Jerrold Kaplan indicated that appellant had initially been hospitalized on December 8, 1996 with complaints of headache, dizziness, diplopia and imbalance. Dr. Kaplan diagnosed left cerebrovascular accident, left vertebral artery disease, hypertension and gastroesophageal reflux disease, without discussing causal relationship with employment. In a form report (Form CA-20) dated February 11, 1997, Dr. Neal Naito, an internist, diagnosed left stroke, posterior circulation and left vertebral artery disease, checking a box "yes" that the condition was employment related and stating "condition was aggravated by work stresses that increased patient's blood pressure." It is well established that the checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.<sup>4</sup> Dr. Naito did not discuss the work stresses or otherwise provide a medically reasoned opinion as to causal relationship between employment and a stroke, artery disease, or other diagnosed condition.

In a report dated March 25, 1997, Dr. Naito stated that appellant was unemployable due to a left sided stroke that had left appellant with permanent double vision and significant gait disturbance. He indicated that appellant had been diagnosed with borderline hypertension in 1991, and "since physical and mental stress is directly linked to hypertension, it can be put forth that [appellant's] job should have been changed to one involving less physical labor and more

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<sup>2</sup> See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>4</sup> See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

desk type activity back in 1993. This change may have resulted in a lowering of his blood pressure and, thus, possibly prevented his stroke.” Dr. Naito concluded that “clear, irrefutable linkage between the workplace and [appellant’s] illness is difficult to do retrospectively, but given the severity of this patient’s disability, all possibilities must be examined.” Although it is not necessary to reduce the cause of a condition to an absolute medical certainty, there must be a medical opinion that is nether speculative or equivocal.<sup>5</sup> He speculates that a job involving less physical labor may have lowered appellant’s blood pressure and possibly prevented his stroke, but he does not provide a reasoned medical opinion, based on a complete understanding of the implicated work factors, that establishes causal relationship between employment and an emotional condition, hypertension, or a stroke. Accordingly, the Board finds that appellant has not met his burden of proof in this case.

The decision of the Office of Workers’ Compensation Programs dated April 9, 1997 is affirmed.

Dated, Washington, D.C.  
March 10, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member

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<sup>5</sup> *Roger Dingess*, 47 ECAB 123 (1995).