

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JACQUELYN C. CAPPS and U.S. POSTAL SERVICE,  
POST OFFICE, Lenoir, N.C.

*Docket No. 97-1347; Submitted on the Record;  
Issued May 19, 1999*

---

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
DAVID S. GERSON

The issue is whether appellant's disability related to her accepted condition of depression, single episode, ended by August 26, 1991.

On November 9, 1990 appellant filed a claim for "stress" in her employment as a window clerk. After developing the factual and medical evidence, the Office of Workers' Compensation Programs by decision dated October 28, 1991, accepted appellant's claim for "an episode of depression, resolved by August 26, 1991." The Office paid appellant compensation for periods of leave-without-pay from October 27 to November 8, 1990. Thereafter, from November 9, 1990 until March 20, 1992, appellant received pay as administrative leave from the employing establishment. By decision dated September 3, 1992, the Office found that appellant had no employment-related disability after August 26, 1991. An Office hearing representative affirmed this decision in a decision dated January 8, 1997.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits. After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.<sup>1</sup>

The Board finds that the medical evidence establishes that appellant's disability related to her accepted condition of depression, single episode, ended by August 26, 1991.

Dr. Selwyn Rose, a psychiatrist, examined appellant on July 8 and September 24, 1991, and reviewed her history, prior medical reports and the results of psychological testing done on August 26, 1991 by Dr. John F. Warren, a clinical psychologist. In a report dated October 9, 1991, Dr. Rose stated that appellant had "no symptoms of a major depressive disorder at this

---

<sup>1</sup> *Linda C. Ball*, 43 ECAB 533 (1992).

time,” and concluded, “In summary, it is my opinion that [appellant] is not presently disabled. She was disabled for a few hours or days at the time of the October 1990 episode in which she started crying and screaming and could not stop. That problem resolved quickly with treatment.” Dr. Jeffrey S. Janofsky, a Board-certified psychiatrist, who reviewed the record on July 8, 1991, also concluded that appellant had no evidence of a major depressive or anxiety disorder. Appellant’s attending Board-certified psychiatrist, Dr. Philip J. Schmitt, stated in a June 3, 1991 report that appellant “could certainly return to work as a postal clerk, but not at the same off[ice] since she has so much paranoid feelings regarding the other staff members who work there. Other than the location, however, I see no reason why she could not return to work as a postal service window clerk and she could do it immediately.” This report indicates that appellant is unable to work at the employing establishment due to a nonwork-related condition of paranoia rather than her accepted employment-related condition of single episode of depression.

With regard to the reports of Allan Galloway, whose November 27, 1990 report indicates is a clinical psychologist, the Board finds that these reports do not constitute competent medical evidence. While clinical psychologists are included under the definition of “physician” in section 8101(2) of the Federal Employees’ Compensation Act,<sup>2</sup> the Office has accepted the American Psychological Association’s definition of a clinical psychologist. This definition, as set forth in the Office’s procedure manual,<sup>3</sup> defines a psychologist as an individual who:

“(1) Is licensed or certified as a psychologist at the independent practice level of psychology by the state in which he or she practices, and

“(2) Either possesses a doctoral degree in psychology from an educational institution accredited by an organization recognized by the Council on Post-Secondary Accreditation or is listed in a national register of health service providers in psychology which the Secretary of the Department of Labor deems appropriate, and

“(3) Possesses two years of supervised experience in health service, at least one year of which is post degree.”

As ascertained by an Office hearing representative at a hearing held on October 25, 1996, Mr. Galloway does not fall within the Office’s definition of clinical psychologist, his reports do not constitute competent medical evidence to support appellant’s claim.<sup>4</sup> The weight of the medical evidence establishes that appellant’s disability related to her accepted condition of depression, single episode, ended by August 26, 1991.

---

<sup>2</sup> 5 U.S.C. § 8101(2).

<sup>3</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Overview*, Chapter 3.100.3a (October 1990).

<sup>4</sup> See *Arnold A. Alley*, 44 ECAB 912 (1993).

The decision of the Office of Workers' Compensation Programs dated January 8, 1997 is affirmed.

Dated, Washington, D.C.  
May 19, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

David S. Gerson  
Member