

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SHARON K. HOLMBO and DEPARTMENT OF THE ARMY,  
SAVANNA ARMY DEPOT ACTIVITY, Savanna, IL

*Docket No. 98-1034; Submitted on the Record;  
Issued November 10, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained an emotional condition in the performance of duty causally related to factors of her federal employment.

The Board has duly reviewed the record in this case and finds that appellant has not established that she sustained employment-related stress.

To establish that she sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.<sup>1</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.<sup>2</sup>

Workers' compensation law is not applicable 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. When disability results from an emotional reaction to regular or

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<sup>1</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>2</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

specially assigned work duties or a requirement imposed by the employment, the disability comes within coverage of the Federal Employees' Compensation Act.<sup>3</sup> On the other hand, there are situations when an injury has some connection with the employment, but nonetheless does not come within the coverage of workers' compensation because it is not considered to have arisen in the course of the employment.<sup>4</sup>

On May 27, 1997 appellant, then a 49-year-old explosive operator foreman, submitted an occupational disease claim, alleging that a threat made by one of the men she supervised, Jeffrey Johnson, caused stress and depression. She did not stop work. In an attached statement, she advised that the employee had caused problems in the past and that on April 17, 1997 he complained to a coworker, Mike Farrell, that the employing establishment "better start worrying about me and I am going to start with that bitch in the office." On April 30, 1997 a coworker, Marv Brotzman, reported to Mr. Farrell that Mr. Johnson had shown him and another employee a semi-automatic handgun and ammunition. At that time Mr. Farrell became alarmed and reported the two incidents to his supervisor, Cynthia Irwin, who contacted the chief of security, Thomas Kamper. They questioned Mr. Johnson about the incidents, placed him on administrative leave for two days and transferred him upon his return to work. The record contains statements by Ms. Irwin, Mr. Kamper and Mr. Farrell that support appellant's description of the perceived threat and weapon incident.

By letter dated June 23, 1997, the Office of Workers' Compensation Programs advised appellant of the type of evidence needed to support her claim. In response, appellant submitted a July 21, 1997 letter, advising that she was also depressed by the upcoming base closure. She also submitted office notes from her treating Board-certified gynecologist, Dr. Edward S. Alt, who, on May 21, 1997, advised that appellant's mother had phoned stating "work has [appellant] upset."<sup>5</sup>

In a decision dated November 20, 1997, the Office accepted that appellant had experienced various problems with Mr. Johnson who had violated employing establishment policies, that he had a weapon in his possession while at work and that he had made derogatory comments to other employees about appellant.<sup>6</sup> The Office, however, found that the medical evidence of record did not show that appellant's condition was caused by work factors.

Appellant timely requested reconsideration and submitted additional evidence which included newspaper articles and a press release that detailed Mr. Johnson's arrest in November 1997 and indictment in December 1997 on charges of conspiracy and selling stolen explosive materials. She also submitted a November 26, 1997 report from Marilyn Parks, a certified psychiatric nurse, who advised that appellant had been treated on May 20 and 30, 1997 for

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Joel Parker, Sr.*, 43 ECAB 220 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>5</sup> The remainder of treatment notes provided by Dr. Alt are dated previous to the instant claim or make no mention of problems at work.

<sup>6</sup> The Board notes that the Office indicated that Mr. Johnson made the comments on April 30, 1997 when the record reflects that he made them on April 17, 1997.

occupational stress-related anxiety which caused paranoia and inability to be fully productive at work.

By decision dated December 17, 1997, the Office denied appellant's request, finding that Ms. Parks was not a physician under the Act and, therefore, her report did not constitute medical evidence for compensation purposes. The Office also found that the additional material submitted was irrelevant to the issue in this case, whether the medical evidence established that the identified compensable employment factors were causally related to her emotional condition and denied merit review. The instant appeal follows.

Initially, the Board finds that any stress that was the result of a possible base closure or the employee's feelings of job insecurity is not compensable under the Act.<sup>7</sup> Appellant, however, established a compensable employment factor, *i.e.*, the incidents involving Mr. Johnson. The Board nonetheless finds that appellant did not meet her burden of proof to establish that her emotional condition was work related because she did not submit rationalized medical evidence explaining how this factor of employment caused or aggravated her emotional condition. By letter dated June 23, 1997, the Office informed her of the medical evidence necessary to establish her claim. Again, in the November 20, 1997 decision, the Office described the type of evidence needed. Ms. Parks, who is a nurse, is not a physician as defined by the Act<sup>8</sup> and thus cannot render a medical opinion. Furthermore, newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship between a claimed condition and employment factors because such materials are of general application and are not determinative of whether the specifically claimed condition is related to the particular employment factors alleged by the employee.<sup>9</sup> Likewise, the press release is irrelevant to the issue in this case.

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<sup>7</sup> See *Mary L. Brooks*, 46 ECAB 266 (1994).

<sup>8</sup> 5 U.S.C. § 8101(2).

<sup>9</sup> See *Dominic E. Coppo*, 44 ECAB 484 (1993).

The decisions of the Office of Workers' Compensation Programs dated December 17 and November 20, 1997 are hereby affirmed.

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

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member