

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RHONDA L. HALL and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION, Oberlin, OH

*Docket No. 98-86; Submitted on the Record;
Issued October 1, 1999*

DECISION and ORDER

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

The issue is whether appellant has met her burden of proof to establish that she developed an emotional condition due to factors of her federal employment.

The Board has duly reviewed the case record on appeal and finds the case not in posture for decision.

On February 22, 1995 appellant filed a claim for an emotional condition, alleging a causal relationship between her bipolar affective disorder and factors of her federal employment as an air traffic controller. The Office of Workers' Compensation Programs denied appellant's claim on November 15, 1995, finding that appellant failed to establish fact of injury. The Office specifically found that appellant had established three factors of employment: that she worked rotating shifts which affected her sleep patterns; that she made an operational error in one instance and was, for a time, blamed for another error that was not her fault; and that there were differences between her training for the position of air traffic controller and the actual duties she performed. However, the Office concluded that the medical evidence was not sufficiently rationalized to establish a causal relationship between her diagnosed psychiatric condition and these accepted employment factors. Appellant requested an oral hearing and an Office hearing representative affirmed the Office's findings, including the three compensable work factors, by decision dated July 15, 1997.

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 concept of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.¹ An employee's emotional reaction to an

¹ *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

administrative or personnel matter is generally not covered. Thus, the Board has held that matters regarding training² are generally not covered. The Board has held, however, that error or abuse by the employing establishment in an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in an administrative or personnel matter, may afford coverage.³

Appellant attributed her emotional condition to several alleged factors of her federal employment including the training methods of the employing establishment. Appellant stated that the training program was based on negative reinforcement, with a constant focus of the errors committed without corresponding praise for good performance. She also stated that the fact that she was trained by many different people, each of whom had different expectations of how the same specific tasks were to be performed, necessitated constant adjustment and generated a great deal of stress. Appellant further expressed a feeling of being let down after her training was completed. She explained that the training period had been very exciting and challenging but that once she became proficient at her job she was depressed by how monotonous her duties became. As appellant alleged error or abuse in the administration of a personnel matter,⁴ the employing establishment's training methods, she must establish a factual basis for her claim by supporting her allegations with probative and reliable evidence.⁵ Appellant failed to provide any evidence supporting that the employing establishment erred in its training methods. In addition, the failure of employing establishment instructors to give appellant the praise she was due did not constitute a compensable employment factor.⁶ Furthermore, appellant's feeling of disappointment over the difference between her exciting training period and the more routine duties of the actual job position does not equate to a compensable factor of employment as dissatisfaction or boredom with the lack of challenging work does not come within the concept of coverage under the Act.⁷ Therefore, appellant has failed to establish a compensable factor of employment with respect to her training experiences.

Appellant also alleged that she worked rotating shifts and quick turn-around shifts, which caused her to develop irregular sleeping and eating patterns which, in turn, precipitated or aggravated her bipolar disorder. She further stated that she committed an operational error, allowing two aircraft to come too close together, and was temporarily held responsible for a second operational error, and that both of these incidents caused extreme emotional distress. These allegations relate directly to appellant's regular or specially assigned duties and the employing establishment did not dispute that appellant performed these duties as alleged or that the incidents occurred as alleged.⁸ Therefore, the Board accepts these allegations as factual.

² *Jose L. Gonzalez-Garced*, 46 ECAB 559 (1995).

³ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

⁴ Matters involving the training of employees is an administrative function, and, as such, are not considered work factors for purposes of compensation, absent a demonstrated error or abuse on the part of the employing establishment; see *Helen Casillas*, 46 ECAB 1044 (1996); *Jose L. Gonzalez-Garced*, 46 ECAB 559 (1995).

⁵ *Ruthie M. Evans*, 41 ECAB 416 (1990).

⁶ See *Tanya A. Gaines*, 44 ECAB 923 (1993).

⁷ *Martin Standel*, 47 ECAB 306 (1996).

⁸ The Board has recognized working a particular type of rotating shift (40-hour week but fluctuating shifts) is an

In the present case, appellant has established compensable factors of employment: working rotating shifts and having committed a potentially devastating operational error while on duty. However, appellant's burden of proof is not discharged by the fact that she has established employment factors which may give rise to a compensable disability under the Act. To establish her occupational disease claim for an emotional condition appellant must also submit rationalized medical evidence establishing that she has an emotional or psychiatric disorder and that such disorder is causally related to the established compensable factors.⁹ 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 the claimant.¹⁰

In support of her claim, appellant submitted several reports from her treating physicians. In a report dated June 29, 1994, Dr. Neal E. Krupp, a Board-certified psychiatrist, noted the history of appellant's condition, documented stressful situations in both appellant's home life and her employment, including her shift work and the operational error, and listed his findings on examination. He diagnosed appellant's condition as bipolar disorder, mixed type, and concluded that, appellant had suffered a "major depression, first occurrence, coming on in a situation of stress to which she was vulnerable personally and genetically." In a follow-up report dated September 25, 1995, Dr. Krupp stated that appellant had made a good recovery, no longer required medication, and was not medically prohibited from resuming her position as an air traffic controller. These reports are insufficient to meet appellant's burden of proof as Dr. Krupp failed to address the specific causes of appellant's condition, be they employment related, personal problems or a combination of both.

Appellant also submitted several reports from Dr. Samir Y. Mourad, a Board-certified psychiatrist. In his May 5, 1995 report, Dr. Mourad diagnosed bipolar affective disorder and stated that there had been specific work factors which, in his opinion, either precipitated or exacerbated appellant's condition. He described appellant's rotational shifts and the operational error situations appellant had been involved in, and noted appellant's emotional response to these factors, as related to him by her. Dr. Mourad then concluded that "the above mentioned specific work factors precipitated and exacerbated" appellant's condition.

Finally, appellant submitted an October 25, 1995 note from Dr. Manuel E. Gordillo, a Board-certified psychiatrist, who stated: "You have a diagnosis of [b]ipolar [d]isorder. While it is not caused by work stressors your frequent work schedule changes would and could act as precipitating factors for your illness."

employment-related factor and if the medical evidence establishes a deleterious effect due to such shift rotation, it is compensable. *Peggy R. Lee*, 46 ECAB 527 (1995); *John J. Granieri*, 41 ECAB 916 (1990); *Harold W. Bradford*, 30 ECAB 85 (1978).

⁹ *Ruth S. Johnson*, 46 ECAB 237 (1994).

¹⁰ *Id.*

The Board finds that the reports of Dr. Mourad, which, taken together, contain a history of injury, as well as an opinion that the condition was causally related to the accepted employment factors are sufficient, as supported by the reports of Drs. Krupp and Gordillo and uncontradicted by any opposing medical evidence, to require further development of the record. Although Dr. Mourad's reports are insufficient to meet appellant's burden of proof as the physician fails to describe how and why appellant's employment caused or aggravated her diagnosed condition of bipolar affective disorder, they do provide an uncontroverted medical opinion indicating that appellant's underlying emotional condition was aggravated by accepted employment factors and are sufficient to require further development of the case record by the Office.¹¹ On remand, the Office should further develop the medical evidence by preparing a statement of accepted facts including the accepted employment factors and referring appellant to an appropriate physician for an opinion as to whether those factors caused or aggravated appellant's emotional condition. After this and such other further development as the Office deems necessary, the Office should issue an appropriate decision.

The July 15, 1997 decision of the Office of Workers' Compensation Programs is hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, D.C.
October 1, 1999

George E. Rivers
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

¹¹ *John J. Carlone*, 41 ECAB 354, 358 (1989).