

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANNETTE W. JOLLY and U.S. POSTAL SERVICE,
POST OFFICE, Mobile, AL

*Docket No. 98-1709; Submitted on the Record;
Issued October 27, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant sustained a recurrence of disability on or about July 19, 1995 that was causally related to her employment injury of August 26, 1991.

The Board has duly reviewed the record on appeal and finds that the evidence fails to support that appellant sustained a recurrence, as alleged.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.¹

In its February 19, 1998 decision, the Office of Workers' Compensation Programs denied appellant's claim of recurrence because she was attributing the claimed disability to new incidents at work and not to a spontaneous worsening of the depression she sustained on or about August 26, 1991. The record supports the Office's finding. On her March 25, 1996 claim form, appellant described the circumstances of the recurrence as follows: "I was placed in a stressful environment before I had recovered." The September 19, 1995 report, of Dr. Arthur Dumont, III, a Board-certified psychiatrist, states that appellant was seen again intensively beginning in June 1995 due to a resurgence of conflict at work with her supervisor. Dr. Dumont reported that appellant was unable to go back to work due to the stress of the interactions with the supervisor. Counseling notes in this time frame also support a conflict with appellant's supervisor. In a September 13, 1995 letter, the president of appellant's union stated that appellant had called him several months earlier to discuss problems she was having at work. In a January 27, 1997 report, Dr. Dumont documented, at appellant's request, that her appointment

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

on June 5, 1995 was on an emergency basis “due to conflict at work with supervisor.” He stated that the work stress continued such that she was subsequently unable to return to work and remained under his care for further treatment. In a July 8, 1997 report, Dr. Dumont stated that since appellant returned to work she continued to experience significant job-related stress and that she had reported feelings of continued harassment by her supervisors. Finally, in her January 15, 1998 testimony before the Office hearing representative, appellant explained that she never recovered from her August 26, 1991 depression but that when she returned to work her condition was getting worse and no one would listen to her and “it eventually became problems at work. My supervisor started putting more pressures on me and it just degraded from there.” She explained that her supervisor tried to get her to do more work and that she kept trying to tell her that she was not doing very well.

On September 17, 1996 the Office advised appellant that “a recurrence, by compensation definition, is a spontaneous return of a condition requiring treatment or causing disability without any work factors or incidents being involved.” The Office also advised as follows:

“It is noted that you previously filed a new occupational stress claim, citing additional factors of your employment under case #A6-631169. That case was denied by compensation order dated February 26, 1996. In the letter decision denying that claim, you were advised that filing a recurrence under this claim was an option, if you felt that you had not completely recovered from the original stress case. This is what you have done, however, since there are clearly additional factors of your employment involved, as were cited in case A6-631169, it does not appear as if this can be considered a recurrence.”

Because appellant has failed to submit a well-reasoned medical opinion explaining that her disability for work on or about July 19, 1995 was causally related to a spontaneous return of the depression she developed in 1991, as opposed to the intervention of new events or incidents she experienced after returning to work, the record fails to establish her claim of a recurrence.

The February 19, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
October 27, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member