

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KAREN L. OLIVER and U.S. POSTAL SERVICE,
POST OFFICE, West Sacramento, CA

*Docket No. 98-1246; Submitted on the Record;
Issued April 12, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation effective November 9, 1997 on the grounds that she had no disability due to her employment injury after that date.

The Board finds that the Office did not meet its burden of proof to terminate appellant's compensation effective November 9, 1997 on the grounds that she had no disability due to her employment injury after that date.

In late 1985, the Office accepted that appellant, then a 29-year-old distribution clerk, sustained an employment-related aggravation of adjustment disorder; the Office paid appellant compensation for periods of disability.¹ By decision dated November 13, 1997, the Office terminated appellant's compensation effective November 9, 1997 on the grounds that she no longer had disability after that date due to her employment injury.² The Office based its termination on the opinion of Dr. Stephen Levine, a Board-certified psychiatrist to whom appellant was referred for a second opinion.

¹ The aggravation of adjustment disorder was accepted as being caused by two employment factors, appellant's working during the 3:00 p.m. to 11:00 a.m. shift and the failure of the employing establishment to transfer her to another work location.

² By decision dated October 30, 1995, the Office had determined that appellant's compensation should be terminated effective November 12, 1995 on the grounds that she failed to undergo a medical examination as directed by the Office. Appellant requested a hearing before an Office hearing representative. Prior to the hearing, the Office hearing representative issued a decision dated August 18, 1997, in which she reversed the Office's October 30, 1995 decision on the grounds that the Office had not actually suspended appellant's compensation and appellant eventually underwent a medical examination as directed by the Office.

Under the Federal Employees' Compensation Act,³ once the Office has accepted a claim it has the burden of justifying termination or modification of compensation benefits.⁴ The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.⁵ The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁶

The Board finds that the Office improperly based its termination of appellant's compensation effective November 9, 1997 on the opinion of Dr. Levine, the Office referral physician. The December 30, 1995 report of Dr. Levine does not establish that appellant had no disability due to her employment injury after November 9, 1997.

In his December 30, 1995 report, Dr. Levine diagnosed bipolar disorder characterized by periods of manic or mixed episodes. He stated that work-related stress contributed to appellant's original adjustment disorder but was not the cause of her bipolar disorder. Dr. Levine generally discussed the role of genetic influence in the development of bipolar disorder and stated:

"At the present time [appellant] is temporarily disabled as a result of her bipolar disorder, but I do not believe that her present disability is work related. In my opinion she was temporarily disabled from her adjustment disorder for no more than six months, at which time the symptoms of bipolar disorder were superimposed and masked the resolution of the adjustment disorder."

This report is of limited probative value on the relevant issue of the present case in that it does not contain sufficient medical rationale in support of its conclusions on causal relationship.⁷ Dr. Levine did not adequately describe the medical process through which appellant's emotional problems would have ceased to have been due to her employment-related adjustment disorder. He did not explain why and how appellant's employment-related emotional condition would have been superseded by a nonemployment-related bipolar disorder after six months. Dr. Levine generally discussed the condition of bipolar disorder, but did not adequately describe the nature of this condition in appellant's case. Dr. Levine's opinion is of diminished probative value for the further reason that it was produced approximately two years prior to the termination of appellant's compensation effective November 9, 1997 and, therefore, does not provide a clear evaluation of appellant's condition around the time her compensation was terminated.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

⁵ *Id.*

⁶ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁷ *See Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

In addition, the record contains medical evidence which suggests that appellant continued to have disability due to her employment-related emotional condition. In a report dated August 3, 1995, Dr. Ida M. Hilliard, an attending Board-certified psychiatrist, stated that appellant had been in psychiatric treatment with her for industrial-related adjustment disorder, chronic and bipolar disorder. In a report dated August 1, 1996, Dr. Hilliard indicated that appellant's psychiatric condition had shown recent worsening.

For these reasons, the Office did not meet its burden of proof to terminate appellant's compensation effective November 9, 1997 on the grounds that she had no disability due to her employment injury after that date.

The decision of the Office of Workers' Compensation Programs dated November 13, 1997 is reversed.

Dated, Washington, D.C.
April 12, 2000

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member