

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRANK D. McLEAN and U.S. POSTAL SERVICE,
POST OFFICE, Upper Darby, PA

*Docket No. 98-1847; Submitted on the Record;
Issued February 10, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant established that he sustained an emotional condition in the performance of duty causally related to factors of employment.

The Board has duly reviewed the record in this case and finds that appellant has not established that he sustained an employment-related emotional condition.

To establish that he sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence establishing employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.¹ 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.²

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 specially assigned work duties or a requirement imposed by the employment, the disability

¹ *Donna Faye Cardwell*, 41 ECAB 730 (1990).

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

comes within coverage of the Federal Employees' Compensation Act.³ 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.⁴

On April 26, 1996 appellant, then a 50-year-old letter carrier, filed an occupational disease claim, alleging that factors of employment led to job-related stress. He stopped work on April 5, 1996. In an attached statement he indicated that the stress began in November 1991 when, after an inspection, he was given more work to do in less time, requiring that he work overtime everyday. Appellant underwent another inspection in February 1996 and began to worry about his new route with more to do. He stated that he worked the route for three days but then "snapped." Appellant also submitted medical evidence. By letter dated May 23, 1996, the Office of Workers' Compensation Programs informed appellant of the type evidence needed to support his claim. In response, appellant submitted additional medical reports, statements of earnings and overtime, and a personal statement, in which he reiterated that his stress was caused by changes in his routes in 1991 and 1996 with increasing work and overtime required. He returned to regular duty on August 6, 1996 and submitted an employing establishment return to work medical form.

By decision dated November 1, 1996, the Office denied the claim on the grounds that the evidence of record failed to demonstrate a causal relationship between the claimed condition and employment factors. In the attached memorandum, the Office noted that appellant established a compensable factor in that his route was made longer with less time to do it. The Office, however, found that the medical evidence was insufficient to establish that his condition was caused by the accepted factor. On November 25, 1996 appellant, requested a hearing and submitted duplicate copies of evidence of record. At the hearing, held on July 30, 1997, the Office hearing representative carefully explained to him the type evidence needed to support his claim. In a decision dated October 10, 1997 and finalized October 16, 1997, the Office hearing representative affirmed the prior decision. The instant appeal follows.

Appellant's increased work load directly relates to his regularly assigned duties and is, thus, a compensable factor of employment.⁵ Nonetheless, appellant did not meet his burden of proof to establish that his emotional condition was work related because he did not submit rationalized medical evidence explaining how this factor of employment caused or aggravated his emotional condition. By letter dated May 23, 1996, the Office informed him of the type of medical evidence necessary to establish his claim, which was to include a comprehensive medical report from his physician, which was to cite the specific work factors or incidents and explain how these contributed to his condition. Again, at the hearing, the Office hearing representative explained the type evidence required.

³ 5 U.S.C. § 8101 *et seq.*

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

⁵ *See James W. Griffin*, 45 ECAB 774 (1994).

The relevant medical evidence⁶ includes an April 24, 1996 report from Dr. Edward M. Bleeden, appellant's treating Board-certified internist, who noted that appellant was "depressed by job" and diagnosed anxiety and depression. In a May 13, 1996 report, Dr. Cherian Verghese, a psychiatrist, stated:

"This is to state that [appellant] presented for a psychiatric evaluation on April 17, 1996. The diagnosis given is Major Depressive [Dis]order, Single Episode, Moderate to Severe, without Psychotic Symptoms. The medications prescribed are Nortriptyline (75 mg) at night.

"[Appellant's] symptoms started around January 1996. He relates two or three years of increasing stress at work, prior to the onset of this depressive episode. While it is hard to put a direct causal link between stress at work and his depressive symptoms, it is known that stress, in general, has a tendency to precipitate depressive episodes."

Dr. Bleeden submitted a June 6, 1998 report, in which he noted that, in a telephone call on April 4, 1996 and an office visit on April 5, 1996, appellant had described stress, sweats, insomnia and depression secondary to job stress. He noted that he referred appellant to Dr. Verghese. Dr. Bleeden deferred to Dr. Verghese's opinion regarding causal relationship.

The Board finds that the medical evidence of record does not provide a rationalized opinion of a physician relating appellant's condition to specific work factors.⁷ Appellant also submitted an employing establishment form report. The doctor's portion⁸ of the report, however, merely indicates that appellant may return to work in two weeks.⁹ Appellant, therefore, failed to establish he sustained an emotional condition causally related to factors of employment.¹⁰

⁶ Appellant also submitted reports from Mary T. Houghton, a licensed social worker and Cheryl McCarthy, M.A., lay individuals, such as physician assistants or social workers, are not competent to render a medical opinion. See *Shelia Arbour (Victor E. Arbour)*, 43 ECAB 779 (1992). Furthermore, section 8101(2) of the Act defines "physician" to include surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. *Sheila A. Johnson*, 46 ECAB 323 (1994). There is nothing in this record to indicate that Ms. McCarthy is a licensed psychologist.

⁷ See *Victor J. Woodhams*, *supra* note 2.

⁸ The doctor's signature is illegible.

⁹ The "employee information" section of this form includes a description of "occupational stress" and the "yes" box is checked indicating that the diagnosis is employment related.

¹⁰ The Board notes that subsequent to the decision finalized on October 16, 1997 medical evidence was submitted to the Office. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated October 10, 1997 and finalized October 16, 1997 is hereby affirmed.

Dated, Washington, D.C.
February 10, 2000

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member