

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANTONIO G. LUCAS and U.S. POSTAL SERVICE,
POST OFFICE, East Hartford, CT

*Docket No. 98-154; Submitted on the Record;
Issued January 7, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that employment factors caused or aggravated his emotional condition.

The Board has duly reviewed the case record in the present appeal and finds that this case is not in posture for decision.

On April 22, 1996 appellant, then a 37-year-old mailhandler, filed an occupational disease claim, alleging that after being threatened by another employee he had developed depression, nervousness, weight loss, anxiety, irritability and loss of sleep. He had stopped work on April 8, 1996. Following further development, by decision dated February 25, 1997, the Office of Workers' Compensation Programs denied the claim, finding that appellant failed to establish fact of injury. Appellant timely requested a review of the written record and, in a July 22, 1997 decision, an Office hearing representative affirmed the prior decision. The instant appeal follows.

In support of his claim, appellant submitted a statement submitted to the security office of the employing establishment on March 21, 1996 in which he described a verbal threat made to him by a coworker, Henry Brown, on that day. In a statement dated April 11, 1996, appellant indicated that he was too afraid to work. Mr. Brown submitted a statement in which he disputed appellant's allegations.

The relevant medical evidence includes a report dated March 28, 1996 in which Richard J. Lauerman, Ph.D., described the altercation and stated that it resulted in a stress reaction. He advised that appellant could return to work on April 1, 1996. In an April 15, 1996 report, Deborah Stark, Ph.D., advised that appellant's symptoms would not end until he felt safe at work. In a May 2, 1996 attending physician's report, Dr. Stark diagnosed adjustment reaction with anxiety checked the "yes" box, indicating that appellant's condition was employment related because he had been threatened by a coworker. She advised that appellant could return to

work on April 23, 1996. In a June 5, 1996 report, Dr. Stark described the incident between appellant and Mr. Brown and stated that, since appellant was afraid for his safety while at work, he made the decision not to return to work until his safety could be guaranteed. She concluded:

“[Appellant’s] symptoms developed as a direct consequence of his experience with Mr. Brown. There were no other circumstances in his life which contributed to his condition. When his safety was assured, his symptoms remitted and he returned to work. Although [he] continues to feel uneasy when he encounters Mr. Brown, his symptoms have diminished to the point where he feels able to resume all of his duties.....”

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 identifying 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

It is well established that verbal altercations or abuse in the workplace may constitute a compensable factor of employment.³ In the instant case, appellant immediately filed a formal complaint with the employing establishment and was seen by Dr. Lauerman in a timely manner. The Board, therefore, finds that the March 21, 1996 incident constituted a compensable factor of employment. However, it still must be demonstrated by rationalized medical evidence that this factor caused or contributed to appellant’s emotional condition. In the instant case, both Drs. Lauerman and Stark advised that appellant’s altercation with Mr. Brown caused a stress reaction. Although the medical evidence submitted is not sufficient to meet appellant’s burden of proof, it supports his claim. These opinions thus raise an uncontroverted inference of causal relationship between appellant’s condition and the compensable employment factor and are sufficient to require further development of the case by the Office.⁴

On remand, the Office should further develop the medical evidence by referring appellant and a statement of accepted facts to an appropriate Board-certified specialist for a rationalized

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

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

³ *See Mary A. Sisneros*, 46 ECAB 155 (1994).

⁴ *See John J. Carlone*, 41 ECAB 354 (1989).

medical opinion on the issue of whether appellant's emotional condition is causally related to the accepted employment factor.⁵

The decisions of the Office of Workers' Compensation Programs dated July 22 and February 25, 1997 are hereby set aside and the case is remanded to the Office for proceedings consistent with this opinion.

Dated, Washington, D.C.
January 7, 2000

George E. Rivers
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d)(6) (June 1995) (A claim for an emotional condition must be supported by an opinion from a psychiatrist or clinical psychologist before the condition can be accepted).