

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of NATHAN C. JONES and U.S. POSTAL SERVICE,  
POST OFFICE, Baltimore, MD

*Docket No. 99-838; Submitted on the Record;  
Issued June 6, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant suffered a recurrence of disability of his accepted condition post-traumatic stress syndrome.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a left index finger amputation and post-traumatic stress syndrome as a result of a January 9, 1996 injury, which occurred in the course of appellant's federal employment. He returned to a modified-duty position in April 1997.

On September 17, 1997 Michael T. Kyc, an employing establishment manager for maintenance operations, stated that appellant never complained that his injury prevented him from doing his duties. He noted, however, that appellant had problems traveling over 230 miles to work from his home in Virginia.

On September 16, 1997 Dr. Frederick Agisim, appellant's treating physician and a Board-certified psychiatrist and neurologist, reviewed the history of appellant's injury. He noted that appellant had suffered a tumultuous personal life. Dr. Agisim recorded appellant's symptoms of classic panic attacks with somatic symptoms, depersonalization/derealization feelings and a host of depressive and anger-laden feelings. He performed a mental status examination and diagnosed post-traumatic stress syndrome and depression. Dr. Agisim stated that severe stressors included physical trauma, the loss of two fingers in an accident; social and occupational discord consisting of his failure to obtain a transfer and social isolation; and family discord, due to a marital break-up.

On September 30, 1997 appellant filed a notice of recurrence of disability alleging that in August 1997 he experienced panic and anger attacks. He did not describe the circumstances of the recurrence of disability.

On October 2, 1997 Dr. Charles Broadfield, a clinical psychologist, indicated that appellant returned for treatment on September 11, 1997 because he experienced feelings of helplessness, fatigue and sleeplessness. He stated that appellant had a relapse of his emotional condition over the loss of the parts of two fingers, job stress due to travel to work and a complex of interpersonal problems.

On October 30, 1997 Dr. Agisim indicated that appellant was cleared to return to work on November 1, 1997 on a limited basis of 20 to 24 hours per week in such a way as to minimize commuting time. He further recommended that the employing establishment transfer appellant closer to his home in Franklin, Virginia because this would decrease the likelihood of an exacerbation of his condition.

On November 6, 1997 the employing establishment indicated that appellant moved to Franklin, Virginia in November 1996 an area approximately 240 miles away from his work site in Baltimore, Maryland. The employing establishment indicated that appellant's emotional problems stemmed from his voluntary relocation and were, therefore, self-generated.

On March 12, 1998 Drs. Agisim and Broadfield concluded that appellant could not work full time in Baltimore due to the stress of the commute and the fact that his support system remained in Franklin, Virginia.

On September 22, 1998 the Office advised appellant of the information needed to establish his claim for a recurrence of disability. This information included an explanation of why he believed the current condition was related to the original injury and a physician's opinion with supporting explanation as to causal relationship between appellant's current disability/condition and the original condition.

On October 7, 1998 appellant indicated that his mental condition was caused by the amputation of his fingers

On October 21, 1998 Dr. Agisim reviewed the history of the treatment appellant received for his post-traumatic stress syndrome. He stated that appellant remained partially disabled due to his mental condition. Dr. Agisim indicated that appellant could resume full-time duties if he could be transferred to a location within a reasonable distance of Franklin, Virginia. He stated that appellant's support system existed in Franklin, Virginia. Dr. Agisim further noted that appellant was frequently aware of his missing finger parts. Accordingly, he concluded that appellant was unable to resume full-time employment in Baltimore.

By decision dated November 12, 1998, the Office denied appellant's claim for a recurrence on August 13, 1997 because the evidence failed to establish that the claimed recurrence was causally related to the injury of January 9, 1996. In an accompany memorandum, the Office noted that Dr. Agisim related appellant's present emotional condition to his frustration over not being able to work near his home, a noncompensable factor of employment, rather than the approved injury.

The Board finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability in August 1997 causally related to any employment injury or any other factor of employment.

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he cannot perform such light duty. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>1</sup> In the instant case, appellant has failed to establish either a change in the nature or extent of his light-duty requirements or a change in his accepted injury-related condition.

The record indicates that appellant was working in a limited-duty position in April 1997. On September 30, 1997 he filed a claim alleging that he was totally disabled from August 1997. Appellant did not address the cause of his recurrence of disability on the claim form. However, on October 7, 1998 appellant provided a statement indicating that his totally disabling emotional condition stemmed from the work-related amputation of his fingers.

There is no evidence of record establishing any change in the nature or extent of appellant's permanent light-duty position, which began in April 1997, as a cause of appellant's claimed disability in August 1997.

The medical evidence is also insufficient to establish that appellant was disabled from his light-duty position due to a change in the nature or extent of his accepted emotional condition injury.

In support of his claim for a recurrence of disability, appellant submitted reports from Dr. Agisim, appellant's treating physician and a Board-certified psychiatrist and neurologist, dated September 16 and October 30, 1997, March 12 and October 21, 1998, and reports from Dr. Broadfield, a clinical psychologist dated, October 2, 1997 and March 12, 1998. In these reports, neither Drs. Agisim nor Broadfield explained how appellant sustained a recurrence of disability in August 1997 causally related to his January 9, 1996 accepted injuries. For example, in his reports dated September 16, 1997 and October 21, 1998, Dr. Agisim merely stated, without elaboration, that appellant experienced stress or heightened awareness due to his missing fingers. Similarly, in his October 2, 1997 report, Dr. Broadfield attributes appellant's emotional condition, in part, to the loss of his finger parts without further explanation. Because these reports failed to provide sufficient medical rationale explaining how appellant's current problems and claimed total

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<sup>1</sup> See *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Stuart K. Stanton*, 40 ECAB 859, 864 (1989); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

disability were related to his accepted employment injury, they are insufficient to establish appellant's claim.<sup>2</sup>

Both Drs. Agisim and Broadfield attributed appellant's current condition to a new factor of employment which is not compensable. In this regard, they found in all their reports that appellant's emotional condition also stemmed from his long commute to Baltimore, Maryland, which occurred when appellant voluntarily moved to Franklin, Virginia. Nevertheless, a claimant's desire to work in a different locale or his reaction to commuting does constitute a compensable factor of employment, absent any evidence of error or abuse on the part of the employing establishment.<sup>3</sup>

The decision of the Office of Workers' Compensation Programs dated November 12, 1998 is affirmed.

Dated, Washington, D.C.  
June 6, 2000

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

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<sup>2</sup> 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 is unsupported by medical rationale).

<sup>3</sup> *Martin Standel*, 47 ECAB 306 (1996); *Adele Garafolo*, 43 ECAB 169 (1991).