

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES R. KNAPP and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION, Hilliard, FL

*Docket No. 99-54; Submitted on the Record;
Issued March 28, 2000*

DECISION and ORDER

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

The issue is whether appellant has established that he has continuing disability causally related to his accepted employment injury.

This case has previously been on appeal before the Board.¹ In the prior appeal, the Board found that the Office of Workers' Compensation Programs, in its decisions dated May 21, 1996 and August 23, 1995, properly denied modification of its November 8, 1979 decision terminating appellant's compensation benefits. The facts and circumstances of the case are set forth in the Board's prior decision and are incorporated herein by reference.

By letter dated May 18, 1998, appellant requested reconsideration of his claim and submitted additional medical evidence. In a decision dated July 23, 1998, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was insufficient to warrant modification of its prior decision.

The Board has duly reviewed the case record on appeal and finds that appellant has failed to establish that he has continuing disability causally related to his accepted employment injury.

Under the Federal Employees' Compensation Act,² once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.³ The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to employment.⁴ After termination or modification of compensation benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to appellant.⁵ In order to prevail, appellant must establish by the weight of the reliable,

¹ Docket No. 96-1880 (issued May 23, 1997).

² 5 U.S.C. §§ 8101-8193.

³ *Charles E. Minniss*, 40 ECAB 708, 716 (1989).

⁴ *Id.*

⁵ *Virginia Davis-Banks*, 44 ECAB 389 (1993).

probative and substantial evidence that he or she had an employment-related disability which continued after termination of compensation benefits.⁶

The Board, in the prior appeal, found that the Office properly terminated appellant's compensation benefits in November 1979 as the weight of the medical evidence supported a finding that he had no further disability causally related to his employment injury. Appellant, therefore, has the burden of proving that he is entitled to compensation after that date.⁷

In support of his claim, appellant submitted a report dated May 15, 1998 from Dr. Linda Y. Evans. She diagnosed post-traumatic stress disorder (PTSD) and noted that appellant "continues to experience recollections of large aircraft 'near-miss' collisions, has nightmares with similar scenes and actively avoids any reminders of air traffic control or airplane catastrophes." Dr. Evans further noted that appellant worked successfully prior to his exposure "to the pressures of [] employment as an air traffic controller, specifically the July 1974 near collision." She explained the gap in time between appellant's exposure to employment factors in 1974 and his medical treatment in the 1990's as resulting from his desire to "avoid reminders of his [employing establishment] service." (Emphasis in the original). Dr. Evans further stated, "[Appellant's] efforts to deny his psychological problems are very common in nonpersonality-disordered individuals who have PTSD." She expressed disagreement with the Board's application of *Linda Mendenhall*,⁸ in the prior appeal as that case involved a physical rather than emotional condition. Dr. Evans stated that "appellant should not be penalized for the past lack of medical knowledge about PTSD which precluded its precise diagnosis in the early 1970s" and further noted that appellant currently received benefits from the Social Security Administration for PTSD.

The Board finds that Dr. Evans' opinion is insufficient to meet appellant's burden of proof to establish that he had any further employment-related condition or disability. On the prior appeal, the Board noted, citing *Mendenhall*, that the more time has elapsed between the injury sustained and medical treatment received, the greater the likelihood of the intervention of a nonemployment-related incident as a cause of the condition or disability.⁹ Thus, given the length of time between appellant's exposure to the employment factors which caused his employment injury and his medical treatment 20 years later, detailed medical rationale is required to support a causation finding.¹⁰ Dr. Evans did not provide any medical rationale explaining why appellant's emotional condition arose from his employment 20 years earlier rather than an intervening event. The record indicates that appellant experienced significant stressful events throughout his life, including divorce, employment problems, alcoholism, investigations by federal agencies and problems with his teenage stepdaughter. She did not discuss the effect of these events on appellant's condition or otherwise support her causation

⁶ *Wentworth M. Murray*, 7 ECAB 570, 572 (1955).

⁷ *George Servetas*, 43 ECAB 424 (1992).

⁸ 41 ECAB 532 (1990).

⁹ *Id.*

¹⁰ *Id.*

finding with detailed medical rationale and thus her report is of diminished probative value.¹¹ Further, the fact that appellant receives disability benefits from the Social Security Act (SSA) is of no evidentiary value in this case as the Board has held that entitlement to benefits under the SSA does not establish entitlement to benefits under the Federal Employees' Compensation Act. The SSA and the Federal Employees' Compensation Act have different standards of medical proof on the question of disability. Therefore, disability under one statute does not establish disability under the other statute.¹² Furthermore, under the Federal Employees' Compensation Act, appellant's injury or occupational disease must be shown to be causally related to an accepted injury or factors of his federal employment. Under the SSA, conditions which are not employment related may be taken into consideration in rendering a disability determination.¹³

As appellant has failed to submit rationalized medical evidence establishing that he has any condition or disability causally related to his accepted employment injury, he has not met his burden of proof in establishing entitlement to compensation.

The decision of the Office of Workers' Compensation Programs dated July 23, 1998 is hereby affirmed.

Dated, Washington, D.C.
March 28, 2000

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

¹¹ *Lourdes Davila*, 45 ECAB 139 (1993) (medical reports not containing rationale on causal relationship are entitled to little probative value and are generally insufficient to meet appellant's burden of proof).

¹² *Daniel Deparini*, 44 ECAB 657 (1993).

¹³ *Id.*