U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JACK WHITE and DEPARTMENT OF THE ARMY,
Fort Monmouth, NJ

Docket No. 99-11; Submitted on the Record;
Issued May 3, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant's heart condition is causally related to factors of his federal employment.

On November 6, 1997 appellant, then a 54-year-old firefighter, filed a claim alleging that his heart condition was causally related to factors of his federal employment since March 28, 1991. The record reflects that appellant was totally disabled from work between August 3 and September 4, 1997. Appellant returned to limited-duty work on September 4, 1997. Appellant later elected and was approved for disability retirement.

In an October 9, 1997 letter, Dr. Sylvia R. Medley, an expert in occupational and health medicine, noted that appellant's primary physician had indicated that appellant was not tolerant of regular firefighter job duties due to his condition. Dr. Medley further noted that appellant's primary physician had indicated that appellant suffered from angina pectoris in March 1991 and that his current diagnosis included "a history of paroxysmal atrial fibrillation, coronary artery disease, status post previous coronary angioplasty, dilated cardiomyopathy and mitral regurgitation." Dr. Medley then addressed the question of whether there was any medical evidence linking fire fighting to cardiovascular disease in very generic terms, nonspecific to appellant. She stated that cardiovascular disease was a significant health risk for firefighters and involved several contributing factors such as workplace exposure, physical activity and psychological stressors. Dr. Medley concluded that "although firefighters have overall better health than the United States population due to stringent health requirements and physical fitness (the healthy worker effect), they do have an increased risk of developing heart disease, including disabling or fatal disease. In addition, the various stressors of fire fighting can make preexisting heart or vessel disease worse." A packet of information containing excerpts of medical journals concerning fire fighting and its relation to cardiovascular disease was included.

In an October 9, 1997 letter, Dr. Medley indicated that the impact of appellant's disease on his ability to perform his job duties was a Category A medical condition. This was defined as

"a medical condition that would preclude a person from performing as a firefighter in a training or emergency operational environment by presenting a significant risk to the safety and health of the person or others."

In a September 9, 1997 letter, Dr. Steven J. Daniels, who is Board-certified in cardiovascular diseases and appellant's treating physician, noted that appellant had been under his care since March 28, 1991 when he was diagnosed as having crescendo angina pectoris. A successful angioplasty of the left anterior descending artery was performed on April 25, 1991. Appellant was also diagnosed as having a dilated cardiomyopathy and mitral regurgitation along with paroxysmal atrial flutter fibrillation. Dr. Daniels noted that appellant complained of dyspnea on exertion with mild-to-moderate activity and has cough. Dr. Daniels noted that appellant weighed 226 pounds during the August 27, 1997 examination and that appellant's father had had a myocardial infarction at the age of 42. The results of the examination, including the August 13, 1997 electrogram and the June 19, 1997 Thallium stress test was discussed. Dr. Daniels concluded that appellant has dilated cardiomyopathy, paroxysmal atrial flutter fibrillation and a history of prior coronary angioplasty. He opined that appellant's exercise tolerance was quite limited due to left ventricular dysfunction and was documented by the stress test. Dr. Daniels opined that appellant's condition prevents him from resuming work as a firefighter.

By letter dated December 5, 1997, the Office of Workers' Compensation Programs requested that appellant submit additional information including a detailed description of the employment factors, which he felt had contributed to his heart condition and a comprehensive medical report from his treating physician with a description of symptoms, results of examinations and tests, diagnoses, the treatment provided and a rationalized medical opinion on the cause of appellant's condition and whether any employment factors contributed to the condition.

In a December 16, 1997 letter, Dr. Daniels detailed appellant's past medical history and reiterated his findings from his August 27, 1997 examination, which was detailed in the September 9, 1997 report. Dr. Daniels stated it was difficult to state to what degree his employment as a firefighter contributed to appellant's medical problems. He stated that "it is certainly possible that smoke inhalation may have exacerbated his tendency to develop coronary artery disease. Paroxysmal atrial fibrillation was probably related to a dilated cardiomyopathy, although pulmonary insufficiency due to chronic smoke inhalation also may be exacerbating his tendency to develop this arrhythmia." Dr. Daniels further stated that he did not believe the diagnosis of a dilated cardiomyopathy was related to appellant's employment.

In a May 15, 1998 report, an Office medical adviser stated that it appeared that appellant's present disability, according to Dr. Daniels, was due to limited exercise tolerance due to left venticular dysfunction due to dilated cardiomyopathy, which he stated was unrelated to employment. The Office medical adviser stated that there was the possibility that the moderate coronary artery disease was aggravated by the occupational exposure to smoke products as outlined by Dr. Medley in her report and attachment. The Office medical adviser noted that the questions of what extent coronary artery disease contributed to appellant's disability and whether the aggravation of coronary disease was temporary or permanent should be resolved.

Based on the advise of the Office medical adviser, appellant was referred to Dr. Richard Adelson, who is Board-certified in cardiovascular diseases, for a second opinion examination. Dr. Adelson was asked to address the questions of whether smoke inhalation contributed to appellant's tendency to develop coronary artery disease and whether appellant's coronary artery disease was aggravated by smoke inhalation and, if so, whether such aggravation was temporary or permanent. The Office further stated that the compensable factors of employment were: exposure to smoke; strenuous physical activity; and exposure to heat.

In a June 8, 1998 report, Dr. Adelson noted appellant's medical history and set forth his examination findings, including the results of an electrocardiogram. Dr. Adelson noted that appellant's physical examination, notwithstanding appellant's complaints, was relatively unremarkable; central venous pressures were within normal limits and there was no S3 or significant valvular murmur appreciated. Dr. Adelson stated that the extent of appellant's disability required further justification with an Exercise Stress Test wherein the anaerobic threshold is documented at a low work load consistent with appellant's claim of compromised exercise tolerance. He stated that appellant's present complaint of exertion-related dyspnea was of unclear etiology as the 1991 cardiac catherization revealed a normal ejection fraction and appellant's present ejection fraction was not of record. Dr. Adelson reasoned that once appellant's exercise capacity was objectified, then appellant's complaint and the degree of disability present therein may be fully evaluated.

In a memorandum of July 17, 1998, the senior claims examiner noted that the majority of appellant's work was in fire prevention and that he usually put out fires in paper baskets. In a July 20, 1998 memorandum, Mr. Kenneth Moser, workers' compensation specialist, noted that a major portion of a Fort Monmouth's firefighter duties was involvement in mutual aid in the surrounding communities. In this role firefighters could be exposed to fires and hazardous materials. Mr. Moser stated that appellant was part of this mutual aid team before he retired.

In a decision dated July 18, 1998, the Office denied appellant's claim for compensation benefits on the grounds that the medical evidence of record failed to establish fact of injury; *i.e.*, that appellant sustained an injury in the performance of duty as alleged.

The Board has fully reviewed the case record and concludes that the case is not in posture for decision.

It is well established that proceedings under the Federal Employees' Compensation Act[1] are not adversarial in nature nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation benefits, the Office shares responsibility in the development of the evidence.[2] Furthermore, once the Office has begun an investigation of a claim, it must pursue the evidence as far as reasonably possible.[3] In this case, the Office referred appellant to Dr. Adelson for the purpose of addressing the extent appellant's coronary artery

[1] 5 U.S.C. §§ 8101-8193.

[2] *John J. Carlone*, 41 ECAB 354 (1989); *Dorothy L. Sidwell*, 36 ECAB 699 (1985).

[3] *Edward Schoening*, 41 ECAB 277 (1989).

disease contributed to appellant's disability and whether the aggravation of appellant's coronary artery disease was temporary or permanent. Dr. Adelson never addressed the Office's questions. Dr. Adelson stated that appellant's exercise capacity had to be objectified before appellant's current complaint of exertion-related dyspnea and the degree of disability could be evaluated. Since Dr. Adelson advised of further testing before the Office's questions could be answered, the Office was required to authorize those tests for appellant in an effort to obtain a rationalized medical report from Dr. Adelson on the issue in question.[4]

On remand, the Office should authorize the appropriate testing for appellant and refer appellant to a physician Board-certified in cardiovascular diseases or other appropriate specialist for a rationalized medical opinion on the extent of appellant's cardiac condition and its relationship to his employment. After such further development as the Office deems necessary, a *de novo* decision should be issued.

The July 18, 1998 decision of the Office of Workers' Compensation Programs is hereby set aside and the case is remanded to the Office for further action in accordance with this decision of the Board.

Dated, Washington, D.C.
May 3, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

[4] *See also James C. Talbert,* 42 ECAB 974 (1991); *Margaret Ann Connor,* 40 ECAB 214 (1988).