

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LARRY A. GOLIE and U.S. POSTAL SERVICE,
POST OFFICE, Missoula, MT

*Docket No. 00-1617; Submitted on the Record;
Issued June 5, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issues are: (1) whether appellant sustained any physical injury causally related to his May 6, 1998 employment injury; and (2) whether he had any disability on or after June 16, 1998 causally related to his accepted emotional condition.

The Board has given careful consideration to the issues involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the Office of Workers' Compensation Programs' hearing representative, dated and finalized August 20, 1999, is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.¹

On May 15, 1998 appellant, then a 32-year-old letter carrier, filed a claim for an emotional condition after he was pushed by the station manager on May 6, 1998.

On June 16, 1998 appellant filed a claim for an injury to his back and neck due to the May 6, 1998 employment injury.

Following the August 20, 1999 decision of the Office hearing representative, by letter dated December 15, 1999, appellant requested reconsideration and submitted additional evidence.

¹ The Office hearing representative found that appellant had sustained a temporary adjustment disorder on May 6, 1998, which resolved with treatment by June 16, 1998. He further found that appellant had failed to establish that he sustained any physical injury to his neck or back.

By decision dated December 29, 1999, the Office denied modification of its August 20, 1999 decision.²

The Board finds that appellant has failed to establish that he sustained any physical injury causally related to his May 6, 1998 accepted injury.

An employee who claims benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his or her claim.⁴ The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.⁵

In a report dated July 15, 1998, Dr. David T. Schloesser, a neurologist, stated that the May 6, 1998 incident caused an aggravation of neck and shoulder pain. He opined that the condition was causally related to the May 6, 1998 employment injury. However, Dr. Schloesser made no diagnosis and did not provide any medical rationale explaining how appellant's neck and shoulder pain were causally related to the May 6, 1998 employment injury. Therefore, this report is not sufficient to establish that appellant sustained an injury to his neck or shoulder causally related to his May 6, 1998 employment injury.

In a report dated October 11, 1999, Dr. P. Andrew Puckett indicated that appellant had ulnar nerve irritation in his left arm and stated that he related this condition to the May 6, 1998 incident when his supervisor pushed him. However, he provided no medical rationale explaining how this condition was causally related to the May 6, 1998 employment injury. Therefore, this report is not sufficient to discharge appellant's burden of proof.

The Board further finds that appellant had no disability on or after June 16, 1998 causally related to his May 6, 1998 employment injury.

In a report dated November 17, 1999, Robert A. Shea, a licensed clinical psychologist, stated that appellant had post-traumatic stress disorder with acute anxiety and depression due to an altercation at work. He stated that, despite medication and weekly psychotherapy, appellant still had anxiety, depression, feelings of hopelessness and helplessness in taking on social institutions, sleep disturbance problems, agitation and feelings of retaliation and rage. Dr. Shea stated that appellant's symptoms would continue until his "legal difficulties" with the employing establishment were resolved and he felt that justice had been done. However, the Office

² The record contains additional evidence that was not before the Office at the time it issued its December 29, 1999 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Ruthie M. Evans*, 41 ECAB 416, 423-24 (1990); *Donald R. Vanlehn*, 40 ECAB 1237, 1238 (1989).

⁵ *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

accepted that appellant sustained an emotional condition when his supervisor pushed him. Appellant's legal difficulties with the employing establishment are not a compensable factor of employment in this case. Therefore, this report is not sufficient to establish that appellant had any disability on or after June 16, 1998 causally related to his May 6, 1998 employment injury.

In a report dated November 29, 1999, Dr. Terry L. Lanes, a Board-certified psychiatrist, related that appellant was distressed due to the employing establishment's handling of disciplinary measures concerning his supervisor, subsequent to the May 6, 1998 incident. He indicated his opinion that appellant's condition was caused by the May 6, 1998 incident and interfered with his daily activities, his relationship with his wife, enjoyment of his job and required medication and psychiatric counseling. However, the manner in which the employing establishment handled the disciplinary measures regarding appellant's supervisor is not an accepted factor in this case and, therefore, this report is not sufficient to establish that appellant had any disability on or after June 16, 1998 causally related to his May 6, 1998 employment injury.

The decisions of the Office of Workers' Compensation Programs dated December 29 and August 20, 1999 are affirmed.

Dated, Washington, DC
June 5, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member