

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RENÉE E. JOHNSON and DEPARTMENT OF THE ARMY,
FORT LESLEY J. McNAIR, Washington, DC

*Docket No. 00-2209; Submitted on the Record;
Issued November 26, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained a consequential injury on September 3, 1992 causally related to her accepted employment injury of August 15, 1991.

Appellant injured herself in a fall at work on August 15, 1991. The Office of Workers' Compensation Programs accepted her claim (A25-0396628) for synovitis of the right hand. On September 3, 1992 appellant experienced excruciating and severe chest pains while driving to an authorized physical therapy appointment. She filed a separate claim (A25-0412069) for this condition, which she attributed to stress arising from a September 3, 1992 verbal altercation between herself, a supervisor and another employee regarding the status of her request for leave to attend physical therapy. After further development of the record, the Office denied appellant's claim on the basis that the September 3, 1992 injury did not arise in the performance of duty. Appellant unsuccessfully sought to overturn this initial determination on numerous occasions, including several prior appeals to the Board.¹

Having failed to establish a compensable injury under claim number A25-0412069, appellant argued that because her September 3, 1992 injury arose while en route to physical therapy for her accepted injury of August 15, 1991, her subsequent injury should be accepted as a consequential injury under claim number A25-0396628. The Office subsequently combined the two claims and requested additional factual and medical information regarding appellant's claimed consequential injury of September 3, 1992.

By decision dated March 31, 2000, the Office found that appellant failed to establish that her claimed injury on September 3, 1992 was a consequence of her August 15, 1991 employment injury.

¹ See Docket No. 99-2210 (issued November 22, 1999); Docket No. 96-1819 (issued May 22, 1997); and Docket No. 95-1171 (issued March 13, 1996).

The Board finds that appellant failed to establish that she sustained a consequential injury on September 3, 1992 causally related to her accepted employment injury of August 15, 1991.²

The basic rule respecting consequential injuries is that “when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury likewise arises out of the employment.”³ The subsequent injury “is compensable if it is the direct and natural result of a compensable primary injury.”⁴ With regard to consequential injuries, the Board has stated that where an injury is sustained as a consequence of an impairment residual to an employment injury, the new or second injury is deemed, because of the chain of causation, to arise out of and be in the course of employment.⁵

In the instant case, the relevant medical evidence does not establish a causal relationship between appellant’s August 15, 1991 employment injury involving her right hand and the chest pains she experienced on September 3, 1992. Dr. Claudius Thomas treated appellant on September 3, 1992 and, in a similarly dated report, diagnosed chest pains “not of cardiac etiology.” He further stated that they were “most likely stress-related chest pains, brought on by the workplace environment.” Dr. Thomas recommended that appellant take a leave of absence from September 4 through October 1, 1992, pending further cardiac evaluation. In a follow-up report dated December 3, 1992, Dr. Thomas noted that appellant’s complaints of severe chest pains on September 3, 1992 were precipitated by “verbal interactions with and malicious treatment by her boss ... at her workplace.” Appellant reportedly stated, “[She] felt threatened at work and got very severe and excruciating chest pains like [she] was about to have a heart attack when ... driving to a physical therapy appointment.” Dr. Thomas indicated that he had referred appellant for a cardiology consultation that revealed no structural heart disease.⁶ He concluded that appellant’s symptoms on September 3, 1992 were all related in a “cause-effect manner to the events that occurred as described on September 3, 1992.” In a letter dated March 16, 2000, Dr. Thomas reaffirmed his December 3, 1992 findings.

The record also includes an April 23, 1998 report from Dr. Stanley R. Samms, who reviewed Dr. Thomas’ 1992 reports as well as the 1992 cardiology consultation. Dr. Samms stated that the 1992 examination and findings did not rule out stress-related factors. He further indicated that appellant’s chest pains and symptoms “probably” were work related since all other parameters were found to be normal.

² The issue of whether appellant sustained an emotional condition in the performance of duty on September 3, 1992 is not the subject of the instant appeal. Accordingly, the Board will not revisit the question of appellant’s entitlement to benefits under claim number A25-0412069.

³ Larson, *The Law of Workers’ Compensation* § 13.00. See *Raymond A. Nester*, 50 ECAB 173 (1998).

⁴ *Id.* at § 13.11.

⁵ *Margarette B. Rogler*, 43 ECAB 1034, 1038 (1992).

⁶ In a report dated October 27, 1992, Dr. David A. Gooray, a cardiologist, concluded that appellant had “no findings of structural heart disease.” He did not otherwise offer an opinion as to the etiology of appellant’s condition.

The medical evidence of record does not attribute appellant's September 3, 1992 condition to her accepted employment injury of August 15, 1991. In fact, this evidence does not mention appellant's prior employment injury or her accepted condition of right hand synovitis. Dr. Gooray did not offer an opinion as to the cause of appellant's September 3, 1992 condition. Drs. Thomas and Samms attributed her condition to work-related stress arising on September 3, 1992.

As noted, a subsequent injury "is compensable if it is the direct and natural result of a compensable primary injury."⁷ The medical evidence of record fails to demonstrate that the stress-related chest pains appellant experienced on September 3, 1992 were a direct and natural result of her August 15, 1991 employment injury. As such, appellant has failed to establish a causal relationship between her accepted injury of August 15, 1991 and her condition on September 3, 1992. Accordingly, the Office properly denied benefits.

The March 31, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
November 26, 2001

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ Larson, *The Law of Workers' Compensation* § 13.11.