

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JAGDISH PATEL and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Los Angeles, CA

*Docket No. 00-1987; Submitted on the Record;  
Issued September 27, 2001*

---

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a compensable injury in the performance of his federal duties.

On July 7, 1998 appellant, then a 53-year-old engineering technician, filed a notice of occupational disease claiming that he developed hypertension and coronary heart disease as a result of the stress of his employment. Appellant was admitted to the emergency room on February 3, 1998 for uncontrolled hypertension. He submitted a June 22, 1998 narrative statement, in which he identified stress factors such as an enormous workload and long hours, staff reductions and agency reorganization.

Appellant submitted medical evidence from Dr. Chunilal Shah, dated February 13, 1998, diagnosing him with "hypertension (uncontrolled), acute abdomen, pancreatitis, gastritis and chest pain." Appellant also submitted a April 28, 1998 report from Dr. Frank Litvack, a Board-certified internist and a second report from Dr. Shah dated June 24, 1998, in which he stated that appellant had been under constant stress and pressure at work, which lead to uncontrolled hypertension, uncontrolled diabetes mellitus and which resulted in a heart attack on February 3, 1998.

Appellant's immediate supervisor submitted a statement dated August 17, 1998, in which he stated that appellant's job had been stressful due to various employment factors and that appellant was a highly successful employee with no performance or conduct problems.

The Office of Workers' Compensation Programs also received two additional personal statements from appellant dated September 22, 1998, in which he further discussed the source of his job stress.

Appellant submitted a second report from Dr. Litvack dated March 24, 1998, which stated that he was treated for chest pain and was diagnosed with diabetes and hypertension.

In a report from Dr. Alfredo Trento dated April 2, 1998, Dr. Trento stated that he evaluated appellant for possible cardiac surgery. He diagnosed him with “triple vessel coronary artery disease” and recommended that appellant undergo a coronary artery bypass.

Dr. Litvack performed a coronary angiography on April 2, 1998 and appellant underwent coronary bypass surgery on April 9, 1998. Afterwards appellant attended cardiac rehabilitation.

The Office received a May 27, 1999 memorandum from appellant’s employing agency stating that appellant’s workload has always been considered “light” since he has been viewed for many years as a “marginal performer.”

By decision dated June 1, 1999, the Office denied appellant’s claim for compensation since the evidence of record failed to establish that appellant sustained an injury in the performance of duty.

By letter dated June 28, 1999, appellant requested an oral hearing, which was held on December 14, 1999.

Appellant also submitted a witness statement from a coworker who addressed to appellant’s workload.

On January 18, 2000 the Office received a psychiatric evaluation from Dr. Samuel Albert, a Board-certified psychiatrist and neurologist, dated January 12, 2000. Dr. Albert diagnosed appellant with “generalized anxiety disorder” and “major depressive disorder, single episode.” He also indicated “perceived abusive treatment on-the-job, with emotional reactions to the perceived on-the-job abusive treatment.”

By decision dated March 6, 2000, the hearing representative affirmed the Office’s June 1, 1999 decision.

The Board finds that this case is not in posture for decision.

In this case, appellant contends that stressful incidents at work caused or contributed to both his heart condition and his emotional condition. However, the Board must first determine whether the incidents identified by appellant are compensable factors of employment.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment. In order to establish that he sustained an emotional condition causally related to factors of his federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to his condition; (2) rationalized medical evidence establishing that he has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that his emotional condition or psychiatric disorder is causally related to

the identified compensable employment factors.<sup>1</sup> Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record.<sup>2</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or to secure a promotion. On the other hand, where disability results from an employee's emotional reaction to her regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>3</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.<sup>4</sup> Therefore, the initial question presented in the instant case is whether appellant has alleged compensable factors of employment that are substantiated by the record.<sup>5</sup>

In this case, the Board finds that appellant has established overwork as a compensable factor of employment.

The Board has held that overwork may be a compensable factor of employment.<sup>6</sup>

Appellant alleged that in February 1996 there was a reduction in his department's staff from four to two employees which caused an increase in his workload.

The Board notes that appellant's immediate supervisor concurred with appellant's allegations regarding the workload. In a memorandum dated August 17, 1998 he stated:

“During the past two years, budget cuts have reduced the Project Section, the employee's section, from four (4) engineering professionals (plus additional

---

<sup>1</sup> *Gary M. Carlo*, 47 ECAB 299, 305 (1996).

<sup>2</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>3</sup> *Mary Boylan*, 45 ECAB 338 (1994); *Lillian Cutler*, *supra* note 2.

<sup>4</sup> *See Margaret S. Krzycki*, 43 ECAB 496, 502 (1992); *Lillian Cutler*, *supra* note 2.

<sup>5</sup> *Donald E. Ewals*, 45 ECAB 111 (1993).

<sup>6</sup> *William P. George*, 43 ECAB 1159 (1992); *Georgia F. Kennedy*, 35 ECAB 1151 (1984).

student and temporary help) to a total of two (2) professionals. The employee's engineering section is poorly understaffed. I often requested additional help for Project staff. Unfortunately, help was not provided because of reasons best known to upper management.

"With the loss of two staff in the employee's section, one would think the workload would be decreased and deadlines made flexible. However, the workload increased due to mergers and consolidations. The workload remained unchanged and upper management's deadlines remained critical. Staffing shortages continue to exist."

Also, appellant's coworker, Nathan Christopher, attested in a December 10, 1999 personal statement that the amount of work in their department was unreasonable. He stated:

"I am a witness to the heavy workload that Project Section at LAOPC carried. I am in agreement with [appellant's] statement that the workload was too heavy for [two]-project engineers to carry alone." He continued:

"I am a witness that due to workload pressures, Project Section on numerous occasions requested that additional personnel help be granted. I am a witness that LAOPC's immediate 1<sup>st</sup> line [m]anagement [s]upervisor also requested additional help and that on occasion [m]anagement concurred that additional help was necessary. I am a witness that no help was granted by [m]anagement during [appellant's Office] claim period."

The Board notes that appellant's supervisor did not refute the fact that the number of employees in appellant's department decreased from four to two but that the workload stayed the same. He also stated that he had been told by "several knowledgeable observers" that appellant's coworker, Mr. Christopher, had been responsible for the majority of the workload in appellant's department and not appellant. However, Mr. Christopher himself, in his December 10, 1999 personal statement, stated that both he and appellant shared the workload evenly.

The Board finds that the evidence of record demonstrates that appellant has established overwork as a compensable factor of employment.

The Board also finds that appellant's claim of reorganization as a compensable factor of employment is an administrative matter and does not fall under the purview of the Act.<sup>7</sup> The Board has previously explained that the actions of an employing establishment in effecting a reorganization relate to administrative or personnel matters of the employing establishment rather than the regular or specially assigned duties of the claimant. Unless the evidence discloses error or abuse on the part of the employing establishment, administrative personnel matters will not constitute compensable factors of employment.<sup>8</sup> Appellant has not submitted any evidence establishing error or abuse in the reorganization.

---

<sup>7</sup> *Peggy Ann Lightfoot*, 48 ECAB 490 (1997).

<sup>8</sup> *Mary Margaret Grant*, 48 ECAB 696 (1997).

The Board finds that this case is not in posture for decision, as the Office has not evaluated whether this compensable factor of employment caused appellant's emotional condition, hypertension, or heart condition.

The medical evidence of record should be reviewed by the Office in light of the fact that appellant has established a compensable factor of employment.

The March 6, 2000 and June 1, 1999 decisions of the Office of Workers' Compensation Programs are hereby set aside; the case is remanded for further proceedings consistent with this opinion.

Dated, Washington, DC  
September 27, 2001

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member