

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PENNY S. HOUGHTALING and U.S. POSTAL SERVICE,
POST OFFICE, San Francisco, CA

*Docket No. 02-525; Submitted on the Record;
Issued December 13, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant met her burden of proof in establishing that she was entitled to compensation for wage loss commencing September 1, 2000 causally related to her accepted employment injury of November 23, 1999.

On March 14, 2000 appellant, then a 46-year-old operations technician, filed an occupational disease claim alleging that she sustained an emotional condition in the performance of duty. On August 28, 2000 the Office of Workers' Compensation Programs accepted her claim for depression.¹ Appellant did not stop work until September 1, 2000.²

On September 16, 2000 appellant filed a claim for compensation (Form CA-7) on September 16, 2000 for the period of September 1 to October 1, 2000. She stopped work on September 1, 2000 and returned to work on July 9, 2001.³

In a report dated September 15, 2000, Dr. Randolph P. Johnston, a psychiatrist, indicated that appellant was pleased with the decision to transfer her supervisor and noted that she continued to have concerns that were nonjob related, including financial reversals. Dr. Johnston indicated that these concerns necessitated a major family move. Appellant was diagnosed with sleep deprivation. Dr. Johnston indicated that he believed that appellant was up to the task of resolving these issues and recommended medical leave beginning September 1, 2000 and ending

¹ In an August 7, 2000 report, Dr. James Trahan, a Board-certified psychiatrist and second opinion physician, opined that appellant's conditions were related to her employment. He opined that appellant could continue working under the same supervisor and recommended that mediation with a mental health professional be provided.

² The record reflects that appellant was off work as of September 1, 2000 and a new supervisor was engaged as of September 8, 2000.

³ Appellant stated that she returned on September 29, 2000; however, Dr. David R. Carnow, an employing establishment physician Board-certified in occupational medicine, stated that she was unfit for duty.

September 29, 2000. He requested that appellant's supervision change be a permanent arrangement and stated that it was in appellant's best interests. Dr. Johnston stated appellant wished to return to regular duties full time and without restrictions with the full support of management.

In attending physician's reports dating from September 18 to October 16, 2000, Dr. Johnston advised that appellant was disabled from September 1 to September 29, 2000. He checked the box "yes" indicating that her condition was caused or aggravated by an employment activity and indicated "abusive supervisor."

In an October 9, 2000 report, Dr. Johnston indicated that he recommended a return to work without limitations on September 29, 2000. He stated that his recommendation still stood and appellant was capable of performing all the duties of her job. Dr. Johnston diagnosed adjustment disorder with mixed emotional features. He indicated that this was a typically transient disorder attributed to an external environmental stressor, which in this case, was an abusive supervisor. Dr. Johnston stated that appellant was essentially asymptotic as of September 29, 2000.

In a November 3, 2000 report, Dr. Douglas A. Layton, a family practitioner, indicated that appellant's symptoms of anxiety and depression had resolved. He indicated that there was no reason why appellant could not return to full duty.

In a November 13, 2000 report, Dr. Carnow found that appellant was unfit for duty.

In a November 28, 2000 report, Dr. Layton indicated that appellant should have a trial back at work and he did not believe she should have any trouble, since her supervisor had moved to a different location, the "stressor" was removed.

By decision dated December 12, 2000, the Office denied appellant's claim for additional benefits for the period of claimed disability from September 1 to October 1, 2000 on the grounds that appellant had not provided sufficient rationalized medical opinion explaining why she was unable to perform, at least limited duty.

By letter dated December 19, 2000, appellant requested a hearing.

In an attending physician's report dated December 19, 2000, Dr. Layton indicated that appellant's condition was aggravated by an employment activity, noting that she had difficulty with a new supervisor. He advised that appellant could return to work but Dr. Carnow had not released appellant.

In a report dated December 21, 2000, Dr. Sam Graham, a psychologist, indicated that appellant had major depressive disorder and appeared to be in need of aggressive and ongoing psychiatric treatment.

On February 5, 2001 appellant filed another claim for compensation (Form CA-7) for the period of October 1, 2000 and continuing.

In an attending physician's report dated February 7, 2001, Dr. Layton indicated that appellant's condition was aggravated by an employment activity, noting that she had difficulty with a new supervisor. He advised that appellant could not return to work, indicating multiple treatment was yielding incomplete relief and he would defer treatment to "psychiatry."

By letters dated February 12 and March 14, 2001, the Office advised appellant that additional factual and medical information was needed. Appellant was allotted 30 days to submit the requested evidence.

By letter dated July 25, 2001, appellant indicated that she returned to full duty on July 9, 2001. Additionally, by letter of the same date, she changed her request for an oral hearing to a request for an examination of the written record.

By decision dated November 7, 2001, the Office hearing representative amended the Office's findings regarding the events, which were established as compensable. She affirmed the prior decision finding that appellant's disability beginning September 1, 2000 was not causally related to her accepted employment injury.

The Board finds that appellant has not met her burden of proof in establishing that she was entitled to compensation for wage loss commencing September 1, 2000 causally related to her accepted employment injury of November 23, 1999.

An employee seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Victor J. Woodhams*, 41 ECAB 153 (1989); *Elaine Pendleton*, *supra* note 5.

physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed disability as of September 1, 2000 and the accepted employment-related condition. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁸

In this case, the Office accepted that appellant sustained depression in the performance of duty on November 23, 1999 and that she was able to continue working under her current supervisor. She filed out several Form CA-7's claiming disability commencing September 1, 2000. The Office requested that appellant provide medical evidence which established a causal relationship between her claimed disability for work and her accepted disability.

Appellant provided several reports from Dr. Johnston indicating that he was pleased that appellant's supervisor had been transferred. In his September 15, 2000 report, Dr. Johnston indicated that appellant was totally disabled for the period from September 1 to September 29, 2000. He indicated that appellant had nonjob-related concerns that included financial and family pressures. Dr. Johnston opined that appellant could return to full duties on September 29, 2000. In subsequent reports from September 18 to October 15, 2000, he checked the box "yes" indicating that appellant was disabled and her condition was caused or aggravated by her employment but he did not offer any explanation. Dr. Johnston found, in his October 9, 2000 report, that appellant was capable of performing all duties of her job. He further indicated that appellant was asymptomatic as of September 29, 2000. Dr. Johnston did not describe or explain how the nonjob-related stressors were differentiated from the job-related stressors. Additionally, he did not explain how appellant's condition of depression, which was related to her supervisor, would continue, in light of the transfer on September 8, 2000. Dr. Johnston's opinion is of diminished probative value as it does not provide sufficient medical rationale explaining how or why appellant's condition is currently affected by or related to factors of employment.⁹

Dr. Layton, in his reports dated November 3 and November 28, 2000, indicated that appellant's symptoms had resolved and she could return to full duty. He stated that he did not believe appellant would have any trouble upon her return to work, since her supervisor had moved and the stressor was removed. This report is of little probative value in assisting

⁷ *Id.*

⁸ *See Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

⁹ *William C. Thomas*, 45 ECAB 591 (1994).

appellant with respect to her claim that she was disabled during the claimed period, as her doctor did not provide sufficient medical rationale relating appellant's disability to her accepted condition and factors of her employment.¹⁰

Dr. Carnow, the employing establishment physician, opined that he did not believe appellant was fit for duty; however, he did not elaborate between the external stressors or provide rationale for his decision. Further, his opinion was of diminished probative value as his specialty was not in the psychiatric area of expertise.

Additionally, in a December 21, 2000 report, Dr. Graham, a psychologist, indicated that appellant appeared to be in need of aggressive and ongoing psychiatric treatment. However, he did not render an opinion with respect to treatment of appellant or indicate that she was disabled or unable to work and referred her to another physician.

Appellant did not submit sufficient medical evidence that her claimed disability was causally related to her November 23, 1999 employment injury. Appellant did not submit a medical report in which her treating physician explained why her disability continued to be related to the accepted injury. None of the physicians of record explained why or how appellant's condition would continue after her supervisor was transferred from the work site.

Consequently, appellant has failed to submit any evidence that would indicate that she had a work-related condition effective September 1, 2000 that caused any ongoing disability. As appellant has failed to submit such evidence, she has not met her burden of proof to establish that she sustained any employment-related disability beginning on September 1, 2000.

¹⁰ *Id.*

The November 7, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 13, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member