

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MONIKA TARWATER and U.S. POSTAL SERVICE,
POST OFFICE, Gilmer, TX

*Docket No. 03-1352; Submitted on the Record;
Issued August 22, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained an injury in the performance of duty.

On August 8, 2002 appellant, then a 57-year-old rural carrier, filed a notice of occupational disease alleging that she suffered from hypertension as a result of work factors. She stated that she first became aware of her illness on July 24, 1999. Appellant further stated that she first realized her condition was caused or aggravated by her employment on January 17, 2002. Appellant stopped work on June 26, 2002 and has not returned.

In an August 8, 2002 letter, attached to her CA-2 claim form, appellant related that she was told that she had high blood pressure three years prior while in the emergency room obtaining stitches for a leg cut. Appellant contends that she has been on medication for high blood pressure for three years and that her blood pressure always goes down when she goes off of work. She alleged that her blood pressure went down when she took several weeks off work in January 2002 and then again in May 2002 when she was off work for an injured shoulder. Appellant alleged that, since her blood pressure lowered when she was off work, her hypertension must be caused by work-related stress. She explained that working conditions at the employing establishment were deplorable because her supervisor for the first 22 years of her employment had harassed and intimidated the staff by throwing temper tantrums, threatening to blow up the building and expressing his hatred of women. Appellant also noted that she considered a janitor for several years to be intimidating and that he was now in jail for "aggravated injuries to minor children." She related that she expressed her concerns about the janitor to the Department of Human Resources but that they did not consider him to fit the profile of a violent person. Appellant stated that since she stopped work on June 26, 2002 her blood pressure has been under control.

In an August 14, 2002 letter, Ernest Watson, appellant's supervisor, indicated that appellant was on a "nonscheduled day at home" on June 26, 2002 when she experienced

tightness in her chest and shortness of breath that caused her to be hospitalized. Mr. Watson stated that he had not witnessed the actions alleged by appellant in her August 8, 2002 letter.

In a letter dated October 16, 2002, the Office of Workers' Compensation Programs advised appellant of the factual and medical evidence required to establish her claim for compensation, including a description of the job activities that she believed contributed to her hypertension and a comprehensive and reasoned medical report from her treating physician that addressed the cause of her alleged medical condition.

In response, appellant submitted a certification form signed by Dr. Joseph W. Bell, a Board-certified internist. The certificate did not contain a date for the signature. The certification was prepared in accordance with the Family and Medical Leave Act of 1993. Dr. Bell diagnosed hypertension that was "difficult to control and exacerbated by work conditions." He indicated that appellant was first diagnosed with hypertension on January 10, 2000. Dr. Bell also stated that appellant's condition was chronic and would require intermittent periods of time off from work as the hypertension appeared to be work related.

Appellant submitted copies of hospital records for admissions on January 3 and June 26, 2002. On January 3, 2002 appellant was treated for accelerated hypertension and discharged the next day. Dr. Bell noted on the discharge summary that he suspected a strong element of stress in her blood pressure readings. On June 26, 2002 the chief complaint was listed as shortness of breath and elevated blood pressure. Dr. Bell performed a physical examination, indicating that appellant required a cardiac consult with respect to elevated blood pressure.

In a July 29, 2002 report, Dr. Bell stated that appellant had been under his care for several years for treatment of hypertension that was difficult to control. He noted that appellant had been recently hospitalized for chest pain related to high blood pressure. Dr. Bell specifically stated as follows:

"We have seen significant variations in the patient's blood pressure in the past, according to whether she is working or not. Again, she tends to have elevations of her blood pressure when work becomes more stressful and, again, lowering when she is on vacation or when there is lessened stress in the employment place. For this reason, I have advised [appellant] not to continue working at this point as I think this is detrimental to her overall health."

In a letter dated October 24, 2002, Mr. Watson stated that he had been appellant's supervisor since August 2001. He responded to appellant's accusations of alleged incidents that occurred prior to 1999 when he was not in charge. Mr. Watson stated that he was unable to comment on the actions of a previous supervisor, as he had no first hand knowledge of any of the comments made to the workers at that time. Mr. Watson, however, indicated that several carriers had kept after a previous postmaster to do something about the custodian. He related that most of the complaints concerning the custodian had to do with him staring and occasionally talking to himself. Mr. Watson stated that appellant's prior supervisor stopped work in September 1999 and that the custodian stopped work in September 2001. A job description for appellant's

position was provided and it was noted that the incident which most recently caused appellant to be off work occurred at home and not while she was on duty.

In a decision dated January 15, 2003, the Office denied compensation on the grounds that appellant failed to establish fact of injury. The Office noted that there was no evidence to establish that any of the stressful work events occurred as alleged. The Office further found that the medical evidence was insufficient to establish a causal relationship between appellant's diagnosed hypertension and work factors.

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an injury in the performance of duty.

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 for condition for which compensation is claimed; (2) a factual statement identifying the 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.¹ The evidence required to establish a causal relationship generally is rationalized medical evidence, based on a complete factual and medical background, showing a causal relationship between the claimed condition and identified work factors.²

In this case, appellant alleges that she was intimidated and felt threatened by a prior supervisor and a janitor on her shift, which aggravated a preexisting hypertensive disorder and resulted in her disability for work. The Board notes that appellant's current supervisor, Mr. Watson, was unable to verify the specific problems appellant had with her prior supervisor, although he did corroborate to some extent that employees made complaints about a janitor who stared occasionally and talked to himself. Notwithstanding, the custodian left work in September 2001 and appellant did not leave work until June 26, 2002. Appellant has provided no description of how her job was stressful after September 2001, such that her increases in blood pressure could be attributable to interaction with the custodian.³ Furthermore, the Office requested that appellant provide a detailed list of the specific work factors that she held responsible for her hypertension, but she did not comply with that request.

Moreover, although Dr. Bell states that appellant's hypertension is aggravated by work stress, he does not discuss the nature of appellant's job or indicate any knowledge of her specific work requirements. The sole basis for Dr. Bell's causation opinion as stated in his July 29, 2002

¹ *Solomon Polen*, 51 ECAB 341 (2000); *Dennis Mascarenas*, 49 ECAB 215 (1997); *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *Dennis Mascarenas*, *supra* note 1.

³ Appellant has described fluctuations in her blood pressures that occurred several months after the janitor left work. Her hospitalizations for high blood pressure do not correspond to the dates that the janitor or the allegedly abusive supervisor were employed.

report, is that he has seen significant variations in appellant's blood pressure depending on whether she had been working at the time of the test or whether she had been off work on vacation prior to when the blood pressure test was taken. However, the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁴ The claimant's belief that a condition was caused or aggravated by employment is not sufficient to establish a causal relationship.⁵

Dr. Bell has failed to identify specific work factors as being the source of stress for appellant and he has failed to adequately discuss with medical rationale how appellant's hypertension was aggravated by work-related stress. The Board finds that his opinion on causation to be insufficiently reasoned to support appellant's claim for compensation. Inasmuch as appellant did not identify specific work factors as requested by the Office and she did not submit a reasoned medical opinion addressing the issue of causal relationship, she has failed to establish fact of injury. The Board, therefore, concludes that the Office properly denied her claim for compensation based on an occupational disease.

The decision of the Office of Workers' Compensation Programs dated January 15, 2003 is hereby affirmed.

Dated, Washington, DC
August 22, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁵ *Linda S. Jackson*, 49 ECAB 486 (1998); *Earl Ray Seal*, 49 ECAB 152 (1997).