

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BEULAH SHOULARS and DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS, New York, NY

*Docket No. 02-1239; Submitted on the Record;
Issued January 16, 2003*

DECISION and ORDER

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

The issue is whether appellant established that she sustained an emotional condition in the performance of duty.

The Board has duly reviewed the case record on appeal and finds that the case is not in posture for a decision.

In order to establish that she sustained an emotional condition causally related to factors of her federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that her emotional condition or psychiatric disorder is causally related to the identified compensable employment factors.¹

The Board has held that an emotional reaction to a situation in which an employee is trying to meet her position requirements is compensable.² Additionally, the Board has found that employment factors such as an unusually heavy workload and the imposition of unreasonable deadlines are covered under the Federal Employees' Compensation Act.³

In a decision dated October 30, 2001, the hearing representative of the Office of Workers' Compensation Programs determined that appellant, a 54-year-old secretary, was overworked and, therefore, she had at least one compensable employment factor as a purported cause of her claimed emotional condition. The hearing representative, however, denied

¹ See *Kathleen D. Walker*, 42 ECAB 603 (1991).

² See *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

³ See *Georgia F. Kennedy*, *supra* note 2.

appellant's claim on the basis that the medical evidence failed to establish that appellant's employment caused or contributed to her claimed conditions of angina, depression and irritable bowel syndrome.

The record includes a December 5, 2000 psychiatric evaluation prepared by Sandra Austin-Benn, a certified clinical specialist in adult psychiatric and mental health nursing. Ms. Austin-Benn diagnosed major depressive disorder, single episode and panic disorder without agoraphobia, which she attributed to appellant's employment. As a registered nurse, Ms. Austin-Benn is not competent to render a medical opinion under the Act.⁴ Accordingly, her December 5, 2000 psychiatric evaluation is of no probative value.

Ms. Austin-Benn referred appellant to Dr. Ambrose O. Mgbako, a Board-certified psychiatrist, who diagnosed major depressive disorder, single episode, without psychotic symptom. He noted that appellant complained of nervousness, tension, panic and anxiety, which she attributed to stress from her job that was so severe that she had to leave. Appellant reportedly stated that she "planned not to return there." Dr. Mgbako described some of the difficulty appellant related to him concerning her employment, which he characterized as her "strong negative experiences on [the] job." He concluded that appellant's illness was caused by her "experiences as a secretary for the Department of Army (sic)."

In a report dated November 12, 2000, Dr. Bernard H. Chaiken, a Board-certified internist, noted that appellant had been under his care since 1975 for treatment of irritable bowel syndrome manifested by abdominal pain and constipation. He also noted that in 1996 appellant experienced precordial chest pains while walking from the subway to her office. The pains reportedly lasted for several minutes and were relieved by resting. Dr. Chaiken also reported that appellant's chest pains were worse in cold weather. While cardiac examinations and objective tests were negative, appellant's chest pains continued to occur frequently and Dr. Chaiken at first attributed her condition to chest wall myositis. He also reported that appellant was treated by several cardiologists beginning in December 1996 because of her ongoing complaints. Despite the use of various prescribed medications, appellant continued to experience severe chest pain with exertion and with left arm radiation. The frequency and severity of appellant's pains were such that she required hospitalization in August 1999. Dr. Chaiken explained that it became apparent to him after reviewing appellant's work history that "she was working under considerable stress and that her symptoms and cardiac conditions were directly attributable to frustrations and the onerous burdens that were placed on her in her job with the Department of the Army." Additionally, Dr. Chaiken noted that he reviewed an October 24, 2000 statement from appellant wherein she reported the "impossible conditions" that were placed on her in her job and for which she could not receive redress. He stated that, as a result, appellant became very depressed and anxious to the point also of serious emotional and cardiac illness, which led to her disability in April 2000. Dr. Chaiken diagnosed irritable colon syndrome, Prinzmetal -- massumi anterior chest wall syndrome, labile hypertension, chronic anxiety syndrome and fatigue syndrome.

⁴ See 5 U.S.C. § 8101(2) (defining "physician" under the Act); *Vicky L. Hannis*, 48 ECAB 538, 540 (1997).

Proceedings under the Act are not adversarial in nature, nor is the Office a disinterested arbiter. While appellant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.⁵ Although the reports from Drs. Chaiken and Mgbako do not contain sufficient rationale to discharge appellant's burden of proving by the weight of the reliable, substantial and probative evidence that her claimed emotional condition is causally related to her employment, they raise an uncontroverted inference of causal relationship sufficient to require further development of the case record by the Office.⁶

On remand, the Office should refer appellant, the case record and a statement of accepted facts to an appropriate medical specialist for an evaluation and a rationalized medical opinion on whether appellant's claimed conditions are causally related to the accepted employment exposure. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The October 30, 2001 decision of the Office of Workers' Compensation Programs is hereby set aside and the case is remanded for further consideration consistent with this opinion.

Dated, Washington, DC
January 16, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ *William J. Cantrell*, 34 ECAB 1223 (1983).

⁶ *See John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).