

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHERYL O. CHARLES and U.S. POSTAL SERVICE,
POST OFFICE, Memphis, TN

*Docket No. 02-598; Oral Argument Held March 18, 2003;
Issued June 11, 2003*

Appearances: *Cheryl O. Charles, pro se; Jim C. Gordon, Esq.*, for the
Director, Office of Workers' Compensation Programs.

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she had any disability or medical condition after April 20, 1998 causally related to her April 15, 1998 employment injury.

This case was previously before the Board. By decision dated November 2, 2001,¹ the Board affirmed the Office's April 20, 2000 decision denying appellant's request for further merit review of her occupational disease claims for injuries on August 4, 1997 and February 13, 1998. With regard to appellant's request for reconsideration of her claim for a traumatic injury on April 15, 1998, the Board set aside the Office's April 20, 2000 decision and remanded the case for further development.² The Board's November 2, 2001 decision is herein incorporated by reference.

In a report dated November 27, 2001, Dr. Lewis Loskovitz, appellant's attending Board-certified family practitioner, stated that in 1998 appellant had a panic attack and hit her head. He related that she went to the emergency room and a panic attack was diagnosed. Dr. Loskovitz stated that several days later he saw appellant for a concussion sustained at the time of the panic attack. Appellant explained to him that a diagnosis of a concussion was not made at the emergency room because she was too upset to convey to the medical staff that she had fallen and hit her head. Dr. Loskovitz stated that appellant was experiencing dizziness, confusion and

¹ Docket No. 00-1952 (issued November 2, 2001).

² On April 16, 1998, appellant filed a claim for injuries to her head, side, shoulder, neck and stomach on April 15, 1998. She alleged that she sustained an anxiety attack, then tripped and fell while seeking assistance, striking her head.

headaches when he saw her but these symptoms “all cleared within a few days.”³ He stated that appellant had no continuing problems due to the concussion.

In a report dated December 19, 2001, Dr. Lee Horton, a clinical psychologist, stated that appellant was prone to experiencing panic attacks. He opined that if the employing establishment was insensitive to appellant’s emotional state her panic attacks could be exacerbated. He did not indicate the cause of the panic attacks.

In a letter dated December 21, 2001, Dr. Loskovitz stated that he treated appellant on April 16, 1998 for a head injury sustained on April 15, 1998 caused by a panic attack at work. He stated that she was experiencing dizziness, blackouts and head and muscle pain as a result of her fall. Dr. Loskovitz stated that appellant recovered from her concussion approximately two days later and returned to work but the panic attacks continued and occurred when she read mail, particularly mail from the employing establishment. He did not explain why reading mail was stressful to her.

By decision dated January 10, 2002, the Office vacated its June 3, 1998 decision denying appellant’s claim for a traumatic injury and accepted that she sustained a concussion on April 15, 1998 that resolved by April 20, 1998.

The Board finds that appellant failed to meet her burden of proof to establish that she had any disability or medical condition after April 20, 1998 causally related to her April 15, 1998 employment injury.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant’s belief of causal relationship.⁴ Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that she sustained an injury in the performance of duty and that her disability was caused or aggravated by her employment.⁵ As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.⁶ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁷ Neither the fact that the condition became apparent during a period of employment nor appellant’s belief that the employment caused or aggravated

³ The emergency room report dated April 15, 1998 indicated that appellant could return to work after April 17, 1998. An April 16, 1998 disability certificate from Dr. Loskovitz indicated that she could return to work after April 20, 1998.

⁴ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ See *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁶ See *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁷ See *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

her condition is sufficient to establish causal relationship.⁸ Furthermore, appellant is entitled to compensation only while the effects of a work-related condition continue.⁹

The medical evidence submitted by appellant does not establish that she had any disability or medical condition after April 20, 1998 causally related to her April 15, 1998 employment-related concussion. The April 15, 1998 emergency room report indicated that appellant could return to work after April 17, 1998. In an April 16, 1998 disability certificate, her attending physician, Dr. Loskovitz, indicated that she could return to work after April 20, 1998. The reports from Dr. Loskovitz dated November 27 and December 21, 2001 stated that the symptoms from appellant's concussion resolved within a few days of the April 15, 1998 injury and she had no continuing residuals of the concussion.¹⁰ There is no medical evidence establishing that appellant had any disability or medical condition after April 20, 1998 causally related to her April 15, 1998 employment-related concussion.

Appellant contends that her panic attack on April 15, 1998 was due to harassment by the employing establishment consisting of the violation of her medical restrictions. However, this argument was previously considered and rejected by the Office in its March 19, 1999 decision and appellant has submitted no additional evidence establishing a compensable factor of employment involved in the April 15, 1998 panic attack.¹¹ As appellant has failed to establish that her panic attack on April 15, 1998 was caused or aggravated by any compensable employment factor, it is unnecessary to address the medical evidence from Dr. Loskovitz and Dr. Horton as it pertains to appellant's panic attacks.¹²

⁸ *Joseph T. Gulla, supra note 6.*

⁹ 20 C.F.R. § 10.500.

¹⁰ The records contains other reports in which Dr. Loskovitz indicated that appellant sustained an injury at work on April 15, 1998, but none of the reports contains an opinion that she had an employment-related condition or disability after April 20, 1998.

¹¹ In its November 2, 2001 decision, the Board affirmed the Office's denial of review of the emotional condition aspect of appellant's claim.

¹² Unless appellant alleges a compensable factor of employment substantiated by the record, it is unnecessary to address the medical evidence; *see Garry M. Carlo, 47 ECAB 299, 305 (1996).*

The decision of the Office of Workers' Compensation Programs dated January 10, 2002 is affirmed.

Dated, Washington, DC
June 11, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member