

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLENE V. MIALEEDSTROM and U.S. POSTAL SERVICE,
POST OFFICE, Portland, OR

*Docket No. 02-1847; Submitted on the Record;
Issued June 13, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issues are: (1) whether the Office of Workers' Compensation Programs properly terminated appellant's compensation on the grounds that her injury-related disability ceased effective November 9, 2001; and (2) whether the Office properly determined that appellant's psychiatric condition was unrelated to her work injury of July 23, 2001.

On July 24, 2001 appellant, then a mailhandler, filed a notice of traumatic injury alleging that her joints became inflamed due to repeated lifting and bending on July 23, 2001.¹ Appellant described the nature of injury as: stress, acute joint inflammation of the wrists, knee, ankles and elbows and subsequent depression. The employing establishment controverted the claim, contending that appellant's overriding concern on July 23, 2001 was her dissatisfaction with having been transferred from a work assignment. The Office accepted the claim for a temporary aggravation of osteoarthritis of both knees, wrists, right elbow and forearm due to a change in her work duties.

The record indicates that appellant has a history of progressive joint pain and stiffness and she was diagnosed with osteoarthritis in approximately July 1998. Appellant also has a history of a bipolar disorder with depression.² In a duty status report dated June 18, 2001, Dr. Tricia Huebner, a family practitioner, recommended that appellant work under medical restrictions due to waxing and waning osteoarthritis pain in the knees, wrist, lower back and neck. She also stated that appellant suffered from depression. Dr. Huebner reported that appellant could be expected to be off work up to 60 days per year for treatment of these conditions. In an August 25, 2000 report, Dr. Huebner noted that appellant could stand for no

¹ Appellant also filed an occupational disease claim on July 24, 2001 alleging that she suffered from osteoarthritis as a result of her work duties.

² Appellant received treatment for depression from April 25 through 29, 2001, with Dr. Rae Wisier, a Board-certified psychiatrist.

longer than 1 to 2 hours at a time without sitting down and that she should not lift more than 25 pounds.

In a disability certificate dated July 30, 2001, Dr. F. Douglas Day, an attending Board-certified family practitioner, advised that appellant was disabled for work beginning July 30, 2001. On December 11, 2001 the Office requested updated information from Dr. Day, concerning appellant's condition and her capacity for work. In a report dated January 9, 2002, Dr. Day noted that appellant had fractured her right tibia and fibula at home in a nonwork-related accident and that she could not work until she had been cleared to do so by her orthopedist. Dr. Day stated, "as far as this patient's arthritis is concerned, this patient should be able to return to work if it were not for her bipolar condition and her fractures."

In a January 9, 2002 report, Dr. Day advised that appellant's husband had fallen onto her leg by accident, fracturing her right tibia and fibula. He noted that appellant would have to be cleared for work by her orthopedist, but as far as her arthritis and bipolar condition were concerned, she was able to return to work.

In a January 11, 2002 letter, the Office asked Dr. Day to address whether or not appellant had been physically able to return to her regular position on September 5, 2001 and whether she was medically stationary concerning the July 23, 2001 work injury. Dr. Day signed the questionnaire on January 29, 2001 circling the answer "Yes" with respect to both questions.

On February 20, 2002 the Office referred appellant for a second opinion evaluation with Dr. William Duff, a Board-certified orthopedic surgeon, who noted that appellant presented to his office, walking slowly with a cane and a stiff-legged gait.³ He discussed appellant's work history and subjective complaints of multiple joint pain, which she attributed to increased standing and lifting job requirements. He noted her history of osteoarthritis, bipolar disorder, depression, post-traumatic stress disorder and complaints of chronic pain. Dr. Duff reported findings on range of motion of the knees, elbows and forearms. Range of motion testing in the elbows revealed a deficit of 20 degrees in full extension bilaterally. Flexion on the right was 120 degrees and on the left was 130 degrees. Pronation is 80 degrees bilaterally and supination was 80 degrees bilaterally in the forearms. At the wrists, flexion is 80 degrees bilaterally, extension 60 degrees bilaterally, radial deviation 15 degrees on the right, 20 degrees on the left and ulnar deviation 40 degrees bilaterally. Generalized motor strength weakness was noted on the right side relating to complaints of pain in the wrist and elbow. The left side showed normal strength. He disagreed with appellant's diagnosis of generalized osteoarthritis, noting that such a diagnosis was never firmly established by the objective evidence. He instead opined that appellant suffered from chronic polyarticular pain syndrome. Dr. Duff stated that there was no objective evidence from which to conclude that appellant had any residuals due to her work injury. He opined that appellant sustained an aggravation of symptoms related to a preexisting arthritic condition on July 23, 2001 but that the employment injury did not leave any permanent residuals. He opined that appellant was at maximum medical improvement from a physical standpoint with respect to her work injury, but indicated that she had continuing psychological problems.

³ Appellant was treated for her nonwork-related ankle injury by Dr. Edgar R. Ragsdale, an orthopedist. Dr. Duff noted that appellant wore a left ankle brace at the time of his examination due to the nonwork-related left ankle fracture.

Dr. Duff completed a work tolerance limitation form, finding that appellant could work as a mail sorter, but noted psychological factors would prevent successful reemployment.

In a February 2002 report, Dr. Thomas P. Welch, a Board-certified psychiatrist, indicated that he had examined appellant at the request of the Office. Dr. Welch discussed appellant's medical and social histories, noting that she was very defensive throughout the interview and that the validity of her reports was questionable. He noted that she attributed her emotional condition to being reassigned to a different job within the employing establishment, which she felt was not in keeping with her physical limitations from arthritis. Based on his examination and testing, Dr. Welch diagnosed bipolar disorder unrelated to her employment or the work injury of July 23, 2001. He noted that she had a many-year history of both depressive and manic episodes and no evidence that her employment had anything to do with the return of her emotional problems. He opined that appellant needed continued medical treatment for her preexisting psychiatric condition, but that she had no residuals due to her work injury. He opined that appellant was totally disabled by bipolar disease as of September 5, 2001, due to manic-type symptoms. A work tolerance limitation form was completed, noting appellant was totally disabled due to her psychological condition.

On March 27, 2002 the Office issued a notice of proposed termination of compensation, advising appellant that the evidence of record showed that her work-related disability had ceased. Appellant was given 30 days to submit evidence in response to the proposed action.

In an April 16, 2002 report, Dr. Day changed his opinion regarding appellant's disability status. He stated that appellant was employed as a mailhandler and that her job required her to perform heavy lifting up to 75 pounds, pushing, pulling and sorting mail. He reported that appellant came to his office suffering from progressive joint pains in the hips, knees, elbow, back and wrists. Dr. Day stated that it was felt that appellant had osteoarthritis and she also suffered from preexisting post-traumatic stress disorder and bipolar disease. He stated that it would be difficult for appellant to continue her employment with the employing establishment.

Appellant submitted a letter describing how her emotional condition was attributable to having to work beyond her medical restrictions in a new bulk flat sort position. She further submitted copies of medical records dated July 27 and 28, 2001, indicating that she was treated for depression, stress and arthritis.

In a decision dated April 29, 2002, the Office terminated appellant's compensation. The Office found that the weight the medical evidence resided with the opinions of Drs. Welch and Duff, who determined that the accepted condition of aggravation of preexisting osteoarthritis had completely resolved so far as the work injury was concerned. The Office further held that appellant failed to establish that her psychiatric condition was causally related to her July 23, 2001 work injury.

The Board finds that the Office properly terminated appellant's compensation benefits.

Once the Office accepts a claim, it has the burden of proof to justify termination or modification of compensation benefits.⁴ After it has determined that an employee has disability

⁴ *Harold S. McGough*, 36 ECAB 332 (1984).

causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁵

In this case, the Office accepted that appellant sustained an aggravation of her preexisting osteoarthritis, when her job duties were changed on July 23, 2001 and that she experienced joint pain after performing her new work assignment. Appellant stopped work on July 23, 2001 and was under the treatment of Dr. Day. In December 2001, the Office requested information from Dr. Day concerning appellant's capacity for work. He prepared a report indicating that appellant was no longer disabled due to her work injury. In his January 9, 2002 report, Dr. Day specifically stated that appellant could return to her regular job from a physical standpoint. Dr. Day's opinion finding appellant capable of returning to work was corroborated by the Office referral physician, Dr. Duff, who agreed that appellant sustained only a temporary aggravation of arthritis on July 23, 2001.⁶ He specifically opined that appellant had no further residuals and was no longer disabled due to her work injury. He noted his disagreement with the diagnosis of generalized osteoarthritis and diagnosed a chronic polyarticular pain syndrome. Dr. Duff concluded that appellant did not have any residuals due to her occupational work injury.

The Board finds that the weight of the medical evidence on whether appellant has any continuing residuals or disability due to the work injury resides with Dr. Duff. He is a Board-certified orthopedic specialist, who based his findings on a thorough examination and proper understanding of appellant's medical and work histories.

The Board also finds that appellant failed to establish that her bipolar disorder was causally related to her employment or the work injury of July 23, 2001.

The record indicates that appellant has been under treatment for bipolar disease and depression since several years prior to her work injury. Appellant's allegation that her July 23, 2001 work assignment, resulted in an aggravation of her emotional condition is not supported by the medical record. The only opinion of record addressing the etiology of appellant's bipolar disorder is from Dr. Welch who finds that it is not causally related to her employment.⁷ He also specifically states that the July 23, 2001 work injury, did not result in an aggravation of appellant's bipolar disorder.

⁵ *Jason C. Armstrong*, 40 ECAB 907 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979).

⁶ Dr. Day later opined on April 16, 2002 that it would be difficult for appellant to continue to work. His change in medical opinion, however, remains unexplained. Dr. Day did not report any new physical findings or objective evidence to support his disability recommendation. Without a rational explanation as to why appellant was suddenly unable to work, Dr. Day's opinion is not well reasoned. See *Ronald C. Hand*, 49 ECAB 113 (1997) (a medical opinion not fortified by medical rationale is of little probative value).

⁷ To the extent that appellant alleges that her emotional condition was due to the change in her work assignment, she has failed to allege a compensable factor of employment. An emotional reaction resulting from a desire to work at a different job does not constitute a personal injury in the performance of duty; see *Gareth D. Allen*, 48 ECAB 438 (1997).

The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.⁸ To establish a causal relationship between a condition, including any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁹

In this case, Dr. Welch's opinion constitutes the weight on the medical evidence with respect to appellant's psychological disorder. Dr. Welch is Board-certified in psychiatry and performed a thorough examination of appellant, discussing her history of bipolar disorder along with depressive and manic episodes. He found no evidence from the record or appellant's description of her employment duties, from which to conclude that her natural history of bipolar disease was work related or aggravated by the July 24, 2001 work injury. Dr. Welch's opinion is entitled to controlling weight as it is reasoned and based on a proper factual background.¹⁰ The Board concludes that appellant's bipolar disease is not causally related to her work duties or the July 23, 2001 work injury.¹¹

⁸ *Charles E. Evans*, 48 ECAB 692 (1997); *Judith J. Montage*, 48 ECAB 292 (1997).

⁹ *David M. Ibarra*, 48 ECAB 218 (1996).

¹⁰ See *Kathleen M. Fava (John F. Malley)*, 49 ECAB 519 (1998) (A medical opinion must be based on a complete medical and factual background and must explain from a medical perspective how the current condition is related to the injury).

¹¹ The Board notes that appellant was experiencing manic depressive episodes in April 2001, almost three months prior to July 23, 2001. Although Dr. Day made a comment that appellant's pain was caused by depression his opinion is not well reasoned and does not address appellant history of depressive episodes prior to the accepted work injury. Dr. Day's unfamiliarity with appellant's psychological history renders his opinion not well reasoned. See *Kathleen M. Fava*, *supra* note 10.

The decision of the Office of Workers' Compensation Programs dated April 29, 2002 is hereby affirmed.

Dated, Washington, DC
June 13, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member