

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM E. EMERY, III and DEPARTMENT OF THE TREASURY,
OFFICE OF THE INSPECTOR GENERAL FOR TAX ADMINISTRATION,
Philadelphia, PA

*Docket No. 03-1067; Submitted on the Record;
Issued June 16, 2003*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

On November 13, 2002 appellant, a 42-year-old criminal investigator/special agent, filed an occupational disease claim alleging that he sustained an emotional condition in the performance of duty. He stated that his employer made the workplace unfair and very stressful. Appellant also stated that he had been relegated to office duty since May 2002 when he was requested to surrender his identification, badge, weapon and vehicle. While he could not perform his job duties under those conditions, appellant stated that he remained accountable for his work. He identified September 30, 2002 as the date he first realized his condition was employment related.

On January 22, 2003 the Office of Workers' Compensation Programs requested that appellant submit a detailed description of the employment-related conditions or incidents that he believed contributed to his illness. The Office also requested medical documentation of appellant's claimed condition.

By decision dated March 11, 2003, the Office denied appellant's claim on the basis that the evidence was insufficient to establish that he sustained an injury.

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

The Board's jurisdiction over a case is limited to reviewing that evidence which was before the Office at the time of its final decision.¹ Inasmuch as the Board's decisions are final as

¹ 20 C.F.R. § 501.2(c).

to the subject matter appealed, it is crucial that all relevant evidence that was properly submitted to the Office prior to the time of issuance of its final decision be addressed by the Office.²

In the instant case, the Office received on March 11, 2003, additional evidence regarding the circumstances that allegedly caused or contributed to appellant's claimed emotional condition. Because of the timing of receipt, this evidence was not considered by the Office in reaching its March 11, 2003 decision denying appellant's claim for compensation.³ However, whether the Office receives relevant evidence on the date of the decision or several days prior, such evidence must be reviewed by the Office.⁴ As the Office failed to address all the relevant evidenced before it at the time of its March 11, 2003 decision, the case is remanded for a proper review of the evidence and issuance of an appropriate final decision.

The March 11, 2003 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further consideration consistent with this opinion.

Dated, Washington, DC
June 16, 2003

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

² 20 C.F.R. § 501.6(c); *see William A. Couch*, 41 ECAB 548, 553 (1990).

³ The Office noted in its decision that it had requested additional evidence from appellant on January 22, 2003, and "No further evidence was received."

⁴ *Willard McKennon*, 51 ECAB 145 (1999).