

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH R. MAYZEL and DEPARTMENT OF DEFENSE,
DEFENSE LOGISTICS AGENCY, El Segundo, CA

*Docket No. 03-261; Submitted on the Record;
Issued March 26, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant sustained an emotional condition or heart condition in the performance of duty causally related to factors of his employment.

This case was previously before the Board.¹ By decision and order dated December 3, 2001, the Board affirmed an Office of Workers' Compensation Programs decision dated June 7, 2000 in which the Office denied appellant's claim for an emotional condition or heart condition. The Board's prior decision is herein incorporated by reference.

On September 2, 1999 appellant, then a 55-year-old general engineer, filed an occupational disease claim alleging that he sustained an emotional condition and aggravation of a coronary condition due to his employment. The Office accepted two employment factors as being within the performance of duty, that he was assigned to support two programs and was required to travel to different buildings located between two blocks to one and one-half miles from his office, but found that the medical evidence did not establish that appellant's emotional condition or his coronary condition was causally related to these employment factors.

By letter dated August 10, 2002 appellant submitted additional evidence.

In a report dated May 9, 2002, Dr. John B. Dorsey, a Board-certified orthopedic surgeon, stated that he had reviewed appellant's medical records. He noted that appellant had coronary artery disease, complicated by Bell's palsy, depression and lumbar disc disease. Dr. Dorsey stated:

“Upon reviewing these records, it would appear that [appellant] has a disability which would preclude him from returning to work.... The combination of heart disease with discogenic disease, particularly to the extent that has been described

¹ See Docket No. 00-2260 (issued December 3, 2001).

in these medical reports with an 8.0 mm [millimeter] protrusion affecting the S1 nerve root, would certainly be a cause for disability for [appellant].”

In a report dated August 5, 2002, Fred Kornfield, Ph.D., a clinical psychologist, diagnosed a major depressive episode, recurrent and moderate, and occupational problems. He indicated that appellant had difficulty handling criticism and feedback from supervisors and coworkers that contributed to his difficulty in performing his job.

Appellant submitted a copy of an August 16, 2002 Social Security Administration decision in which an administrative law judge found that he was disabled due to arteriosclerotic cardiovascular disease following a myocardial infarction in 1996, a herniated disc at L5-S1, and osteoarthritis of the left knee.

By decision dated September 5, 2002, the Office denied modification of its denial of appellant’s claim for an emotional condition and a heart condition on the grounds that the evidence of record did not establish that his claimed conditions were causally related to compensable factors of his employment.

The Board finds that appellant has failed to establish that he sustained an emotional condition or heart condition in the performance of duty causally related to compensable factors of employment.

In the present case, the Office has accepted two employment factors as occurring in the performance of duty, that appellant was assigned to support two programs and was required to go to different buildings located between two blocks to one and one-half miles from his office. However, to establish his occupational disease claim for an emotional or heart condition, appellant must also submit rationalized medical evidence establishing that he has an emotional disorder or heart condition and that such disorder is causally related to the accepted compensable employment factors.²

As the Board has previously considered the evidence of record in this case in its December 3, 2001 decision, it will address in this decision only the evidence submitted since its prior decision.

In Dr. Dorsey’s report he stated that he had reviewed appellant’s medical records, although he stated that it would appear that appellant has a disability which would preclude him from returning to work, he did not provide a rationalized medical opinion explaining how appellant’s conditions were causally related to the two employment factors that have been accepted in this case as being in the performance of duty. Therefore, this report is not sufficient to establish that appellant sustained a work-related emotional or heart condition.

In Dr. Kornfield’s report, he indicated that appellant had difficulty handling criticism and feedback from supervisors and coworkers that contributed to his difficulty in performing his job; however, he did not indicate that appellant’s emotional condition was causally related to the

² See *William P. George*, 43 ECAB 1159, 1168 (1992).

accepted employment factors. Therefore, this report does not discharge appellant's burden of proof.

In determining whether an employee is disabled under the Act, the findings of the Social Security Administration are not determinative. The Social Security Act and the Act have different standards of medical proof on the question of disability. Therefore, disability under one statute does not establish disability under the other statute. Furthermore, under the Act, for a disability determination, appellant's injury or occupational disease must be shown to be causally related to an accepted injury or factor of his federal employment. Under the Social Security Act, conditions that are not employment related may be taken into consideration in rendering a disability determination.³

The decision of the Office of Workers' Compensation Programs dated September 5, 2002 is affirmed.

Dated, Washington, DC
March 26, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

³ See *Daniel Deparini*, 44 ECAB 657, 659-60 (1991); *Hazelee K. Anderson*, 37 ECAB 277, 282-83 (1986).