

FACTUAL HISTORY

On April 15, 2002 appellant, a 52-year-old postmaster, filed an occupational disease claim alleging that on October 24, 2001 he first realized “multiple medical problems” were employment related. In an April 15, 2002 statement, he attributed his stress to falling behind on his work, being shorthanded and “trying to fill in for the shortage.” Regarding his back problems, he contended that his duties of doing paperwork, sitting and standing for long periods aggravated his back problems. Appellant stopped work in January 2002 and has not returned.

By decision dated August 7, 2002, the Office denied appellant’s claim as there was insufficient medical and factual evidence to support his claim. Specifically, the Office found the medical evidence insufficient to establish a causal relationship between “the employment factor and the medical condition.”

In an undated letter received by the Office on August 12, 2002, appellant informed the Office that he filed his claim for stress. He indicated that his work stress was aggravating all his health problems and not just his back.

Appellant subsequently submitted a report dated January 27, 2002 by Dr. Joseph W. Bell, an attending Board-certified internist, who diagnosed chronic back pain due to degenerative disc disease and spinal stenosis. In this report, Dr. Bell opined that appellant’s work situation aggravated appellant’s back pain. He related that appellant acknowledged using alcohol to try to control his back pain and deal with his work stress.

Appellant requested reconsideration in an undated letter received by the Office on September 9, 2002. Appellant also informed the Office that it had misidentified his claim as one for a back condition when the claim he filed was for stress. He also stated that he “never wanted to file on my back condition.”

In a merit decision dated November 6, 2003, the Office modified the denial to reflect that the denial of his claim was based on fact of injury as the “the prior decision denying your claim for causal relationship was in error.” The Office noted appellant had advised it that his claim had been misconstrued as a back claim when in fact he was claiming an employment-related stress condition which had aggravated his other medical conditions, including his back. The Office found that appellant had established that he had been working shorthanded and that he got behind in his work due to trying to fill in for the shortage. Appellant, however, failed to submit medical evidence supporting a causal relationship between the accepted factors of employment and his condition.

In a letter dated January 26, 2003, appellant requested reconsideration and submitted a January 23, 2003 report by Dr. Bell in support of his request.

In the January 23, 2003 report, Dr. Bell noted that appellant related that “he has both an auxiliary rural route and a regular rural route but has no back up for either route” and due to a hiring freeze has not been able to get any assistance. He also reported that appellant had lifting restrictions due to his chronic back pain due to his lumbar spinal stenosis and degenerative disc disease, but apparently appellant went in early to work to dump mail due to being shorthanded.

Dr. Bell attributed appellant's elevated blood pressure to the stress from appellant trying to cover routes when an individual is sick. Dr. Bell opined that appellant had difficulty in controlling his high blood pressure due to stress from his employment which aggravated his condition. He reported that appellant's back problems affected his ability to perform his job as appellant is unable to stand or sit for long periods of time. Dr. Bell concluded that he believed appellant's "disease is proximately caused, aggravated, or accelerated by postal employment."

In a report dated February 28, 2003, Dr. Tarakumar Reddy, a second opinion Board-certified psychiatrist, diagnosed depression in remission with treatment. He related that appellant reported being depressed due to stress at work including less time to get his work done. Dr. Reddy noted that appellant was "somewhat depressed due to his current situation of back pain and inability to work" and that there was alcohol dependence. In concluding, he opined that appellant was "no longer depressed" and was "responding to treatment" and thus, there were no restrictions from a psychiatric viewpoint.

In a March 11, 2003 report, Dr. Robert M. Chouteau, a second opinion Board-certified osteopathic orthopedic surgeon, diagnosed lumbar discogenic disease at L4-5 and L5-S1 which was nonemployment related. He opined that appellant's disability is not due to the compensable factors noted by the Office for his emotional condition. Dr. Chouteau reported a normal neurological examination and that appellant had full range of motion of the spine. He concluded that, based upon his examination and review of the records, appellant was capable of performing his usual employment duties.

In a March 14, 2003 supplemental report, Dr. Reddy attributed depression to appellant's alcohol intake, but opined that appellant's excessive job stress "might have contributed minimally."

In a merit decision dated April 10, 2003, the Office denied appellant's request for reconsideration. The Office found that appellant had failed to establish that his emotional and back conditions were employment related.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim, including the fact that any disability or condition for which compensation is claimed is causally related to the employment injury.³

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned duties or to a requirement imposed by the

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

employment, the disability comes within the coverage of the Act.⁴ On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.⁵

To establish appellant's claim that he has sustained an emotional condition in the performance of duty appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.⁶ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

ANALYSIS -- ISSUE 1

Appellant claimed that his stress was employment related. In this case, the Office accepted that appellant established compensable factors of employment in the November 6, 2002 decision. These factors include appellant's being shorthanded and that he fell behind in his work due to trying to fill in for the shortage of employees. The Board has found that overwork can be a compensable factor of employment if substantiated by the record.⁸ The evidence of record establishes that appellant was overworked due to being shorthanded and falling behind in his work by trying to fill in for the shortage of employees. Appellant's burden, however, also includes providing rationalized medical opinion evidence establishing that the identified compensable employment factor is causally related to his emotional condition.

In support of his claim, appellant submitted reports dated January 27, 2002 and January 23, 2003 by Dr. Bell. In his January 27, 2002 report, Dr. Bell concluded that appellant's depression was due to job stress and that his high blood pressure was aggravated by his stressful employment. Dr. Bell, in a January 23, 2003 report, concluded the stress from trying to cover routes when an employee is ill aggravated appellant's high blood pressure. He also opined that appellant was unable to perform his job duties due to his inability to stand or sit for long periods of time and attributed appellant's condition to aggravation by his employment.

⁴ *Janice I. Moore*, 53 ECAB ____ (Docket No. 01-2066, issued September 11, 2002); 5 U.S.C. §§ 8101-8193.

⁵ *Clara T. Norga*, 46 ECAB 473, 480 (1995); see *Thomas D McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

⁶ *Doyle W. Richetts*, 48 ECAB 167 (1996).

⁷ *Janet L. Terry*, 53 ECAB ____ (Docket No. 00-1673, issued June 5, 2002).

⁸ *Bobbie D. Daly*, 53 ECAB ____ (Docket No. 01-2115, issued July 25, 2002).

Dr. Reddy, a second opinion physician, noted “appellant reported being depressed due to stress at work including less time to get his work done. He also concluded that appellant was no longer depressed and had responded to treatment. Thus, appellant had no restrictions from a psychiatric viewpoint.

Section 8123(a) of the Act provides that, when there is a disagreement between the physician making the examination for the United States and the physician of the employee, a third physician shall be appointed to make an examination to resolve the conflict.⁹ When there are opposing medical reports of virtually equal weight and rationale, the case must be referred to an impartial specialist, pursuant to section 8123(a), to resolve the conflict in the medical evidence.¹⁰

The Board finds that there is a conflict in the medical evidence between the second opinions of Dr. Reddy and Dr. Bell, an attending physician, regarding whether appellant’s stress-related condition disabled him from work, the Office shall prepare a statement of accepted facts and shall refer appellant for an impartial medical examination. After such further development as necessary the Office shall issue a *de novo* decision.

LEGAL PRECEDENT -- ISSUE 2

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹¹ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.

Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors.¹² The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹³

⁹ *H. Adrian Osborne*, 48 ECAB 556 (1997); *Lawrence C. Parr*, 48 ECAB 445 (1997).

¹⁰ *Edward W. Spohr*, 54 ECAB ____ (Docket No. 03-1173, issued September 10, 2003).

¹¹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997); *Ruth Seuell*, 48 ECAB 188 (1996).

¹² *Conard Hightower*, 54 ECAB ____ (Docket No. 02-1568, issued September 9, 2003).

¹³ *Judy C. Rogers*, 54 ECAB ____ (Docket No. 03-565, issued July 9, 2003)

ANALYSIS -- ISSUE 2

The question is whether appellant has established that his back condition was caused or aggravated by employment factors. To meet his burden of proof to establish that his back condition is employment related appellant must submit a rationalized medical opinion explaining how his condition is causally related to his employment. With respect to his back condition, an attending physician, Dr. Bell, an attending Board-certified internist, reported that appellant had chronic pain in his back due to degenerative disc disease and spinal stenosis. In his January 27, 2002 report, Dr. Bell opined that appellant's work situation aggravated his back condition thereby resulting in back pain. Dr. Bell related in a January 23, 2003 report that appellant's back problems affected his ability to perform his work as appellant was unable to sit or stand for long periods of time. He also reported that appellant had lifting restrictions and that he violated those restrictions due to being shorthanded. In concluding, Dr. Bell opined that appellant's "disease is proximately caused, aggravated, or accelerated by postal employment."

Appellant submitted insufficient medical evidence to establish that his back condition was aggravated or caused by employment factors. In his medical reports dated January 27, 2002 and January 23, 2003, Dr. Bell does not report any clinical or physical findings to support his conclusion on causal relationship. Although Dr. Bell reported appellant's back pain was aggravated by his work situation that does not equate with a reasoned opinion on causality. Moreover, Dr. Bell, in his two reports, fails to provide any explanation regarding the nature of the relationship between the diagnosed condition and factors of employment beyond a conclusory statement that work aggravated appellant's back condition. Despite the Office's advice to obtain a rationalized medical opinion in support of his claim, appellant has failed to submit the necessary medical evidence. Therefore, the Board finds that appellant has failed to meet his burden of proof to establish that his back condition was causally related to work factors.¹⁴

In contrast, the March 11, 2003 report by Dr. Chouteau, a second opinion Board-certified osteopathic orthopedic surgeon, is comprehensive and discusses appellant's work duties and nonemployment-related medical conditions in relation to his back condition. Dr. Chouteau diagnosed lumbar discogenic disease at L4-5 and L5-S1 which he opined was nonemployment related. He reported a normal neurological examination and that appellant had full range of motion of the spine. Dr. Chouteau then concluded, based upon his examination and review of the records, that appellant was capable of performing his usual employment duties. Because he provided a reasoned opinion that appellant's back condition was not causally related to factors of his federal employment, his report is entitled to more probative value than the reports by Dr. Bell and, thus, has controlling weight.

CONCLUSION

The Board finds that the issue of whether appellant sustained an emotional condition causally related to his employment is not in posture for decision as there is a conflict in medical

¹⁴ See *Michael E. Smith*, 50 ECAB 313, 316 (1999) (finding that appellant failed to submit a rationalized medical opinion on causal relationship and, therefore, did not meet his burden of proof).

opinion. The Board finds that appellant has not met his burden of proof to establish that his back condition is causally related to factors of employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 22, 2003 is affirmed with regards to the issue of whether appellant's back condition is employment related, but is set aside with regards to the issue of whether appellant's emotional condition is employment related and the case remanded for further proceedings consistent with the above opinion.

Issued: May 21, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
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A. Peter Kanjorski
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