

time of the heart attack.” Appellant stopped work on February 6, 2004 and returned to work on February 27, 2004.¹

By letter dated March 9, 2004, the Office requested that appellant submit additional factual and medical evidence in support of his claim.

In a statement dated March 20, 2004, appellant indicated that while he was on travel duty between February 4 and 6, 2004 he and a coworker, Glenn Lewis, Jr., conducted interviews of taxpayers who were suspected of committing tax crimes. They conducted a total of 11 interviews over the course of 12 to 15 hours on both February 4 and 5, 2004. After conducting an interview on the morning of February 6, 2004, he was admitted to an emergency room at about 1:00 p.m. complaining of chest pains.²

Appellant submitted numerous medical reports concerning the treatment of his heart condition after he sustained a myocardial infarction on February 6, 2004. He was hospitalized for approximately a week after the infarction. The medical reports reveal that appellant had significant preexisting coronary artery disease.

In a March 10, 2004 report, Dr. Gregory A. Benbow, an osteopath and emergency medicine physician for the employing establishment, posited that appellant’s February 6, 2004 myocardial infarction occurred due to his failure to control his obesity, heavy cigarette smoking and high blood pressure over a number of years. Dr. Benbow stated that the work-related stress described by appellant would not have contributed to his myocardial infarction.

In a March 15, 2004 report, Dr. Jack L. Garden, an attending Board-certified internist specializing in cardiovascular disease, stated that he reviewed the “various predisposing cardiovascular risk factors that have to some degree contributed to his acute coronary syndrome and need for cardiac intervention.” He noted: “Among those is clearly the stress inherent in his chosen profession. Federal law enforcement is a physically and emotionally demanding profession and the stress of his employment has, in all likelihood, contributed to his cardiac condition.”

The record contains a position description, which indicates that appellant was required to perform undercover work and conduct interviews in connection with investigations of suspected law breakers. In a March 16, 2004 statement, Mr. Lewis asserted that he and appellant conducted interviews for long hours between February 4 and 6, 2004. On March 23, 2004 appellant’s supervisor stated that the special agent job description in the record was accurate and indicated that, around the time of his February 6, 2004 myocardial infarction, appellant was interviewing taxpayers in connection with an investigation.

¹ Appellant initially filed a claim for an employment-related traumatic injury but later asserted that his cardiac condition was related to employment incidents and conditions which occurred over a period of time.

² Appellant also noted that in August 2003 he traveled to Bogotá, Colombia for three weeks to teach at a military intelligence school and police academy and asserted that the trip was stressful because Colombia is a very dangerous country.

By decision dated April 15, 2004, the Office denied appellant's claim on the grounds that he did not establish any compensable employment factors.

Appellant requested a hearing before an Office hearing representative. He submitted a May 8, 2004 statement in which he asserted that it was stressful to conduct interviews between February 4 and 6, 2004 because taxpayers who are suspected of committing tax crimes generally do not like to talk about their tax matters and the interviews can become "heated" at times. Appellant indicated that he and Mr. Lewis had to rush in order to conduct a large number of interviews and noted that it was difficult to find some of the residences of the interviewees. His special agent position was a law enforcement position, which also required making arrests, carrying a firearm, maintaining and securing evidence, executing search warrants and conducting surveillance and undercover work. Between September 1984 and June 2003, he participated in more than 50 undercover operations for the employing establishment. He often had to assume the identity of drug dealers and money launderers and constantly worried that the drug dealers, corrupt doctors and other criminals he associated with would discover his undercover status.

Appellant asserted that between February 1998 and March 1999 he served as the lead undercover agent in an operation in San Francisco, which required him to launder money in connection with drug deals.³ He also described similar undercover operations that he participated in between 1997 and 2001 in Atlantic City and Philadelphia. He also sustained stress due to the frequent travel and time away from home required by the operations.⁴ Appellant claimed that he sustained stress in 2002 from the residuals of employment-related low back and right shoulder injuries because he did not know if these injuries would prevent him from working again.

The hearing before an Office hearing representative was held on February 15, 2005. Appellant provided testimony about his dangerous work as an undercover agent and about the interviews he conducted between June 4 and 6, 2004, which he described as "tense" due to the reluctant nature of the interviewees.

In a report dated August 30, 2004, Dr. Garden stated: "I can only reiterate the wording of my letter of March 15, 2004, in which I suggested that the stress inherited [sic] in his chosen profession has in all likelihood contributed to his cardiac condition, *i.e.*, coronary artery disease and the need for coronary angioplasty." In a report dated February 14, 2005, Dr. Garden stated that he saw appellant on February 3, 2005 and noted that he continued to do reasonably well after his cardiac intervention although he had difficulty complying with medication and diet regimens. He stated: "much of this contributed [such] to the stress of his employment. There is no question that the stress of his employment has and has had an impact on his current status and prior cardiac condition." In a report dated March 7, 2005, Dr. Garden stated: "I believe it is

³ Appellant alleged that he sustained stress because he did not get along with the case agent on this investigation and asserted that the two had "huge personality differences." He also noted that he worked with two confidential informants that he did not trust.

⁴ Appellant also indicated that he felt responsible for the suicide of a taxpayer who was the subject of the Philadelphia investigation and noted that in 2000 an undercover agent who was a friend was kidnapped and almost killed in Puerto Rico.

reasonable to say that within a degree of medical certainty, work-related stress has certainly contributed to [appellant's] cardiac condition.”

In a March 17, 2005 report, Dr. Benbow stated that stress was not a risk factor in the development of heart disease or in the likelihood of an individual developing clogged arteries. He stated that stress only played a role after a myocardial infarction had started in that cutting stress at that point would reduce the amount of adrenaline type molecules the body made and emitted. Dr. Benbow indicated that appellant had not adequately addressed his risk factors, including those relating to smoking, weight and glycemic and lipid levels and posited that he would suffer a myocardial infarction even if he worked in a low stress environment.

By decision dated and finalized June 23, 2005, the Office hearing representative affirmed the Office's April 15, 2004 decision as modified to reflect that appellant established that participating in undercover operations and conducting interviews between February 4 and 6, 2004 constituted employment factors, but that he did not submit medical evidence showing he sustained a medical condition due to these factors.

LEGAL PRECEDENT

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 employment, the disability comes within the coverage of the Federal Employees' Compensation Act.⁵ 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.⁶

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by employment factors.⁷ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁸

In cases involving stress-related conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when

⁵ 5 U.S.C. §§ 8101-8193.

⁶ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

⁷ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁸ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁹ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.¹⁰

ANALYSIS

Appellant alleged that he sustained a cardiac condition as a result of a number of employment incidents and conditions. The Office determined that appellant established that participating in undercover operations and conducting interviews between February 4 and 6, 2004 constituted employment factors, but that he did not submit medical evidence showing he sustained a medical condition due to these activities. The Board must, thus, initially review whether appellant's alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

Appellant indicated that while he was on travel duty between February 4 and 6, 2004 and conducted interviews of taxpayers who were suspected of committing tax crimes. He stated that 11 interviews were held over the course of 12 to 15 hours on both February 4 and 5, 2004, with an interview on the morning of February 6, 2004. Appellant asserted that it was stressful to conduct these interviews and that the interviews could become "heated" and "tense" at times.¹¹ Appellant further alleged that between September 1984 and June 2003, he participated in more than 50 undercover operations for the employing establishment, assuming identity of drug dealers and money launderers. Appellant provided detailed descriptions of some of these undercover operations, including several that occurred between 1997 and 2001 in San Francisco, Atlantic City and Philadelphia. He asserted that he also sustained stress due to the frequent travel and time away from home required by the operations.¹²

The Board finds that the Office properly determined that appellant established compensable employment factors with respect to participating in numerous undercover operations between 1984 and 2003 and conducting interviews between February 4 and 6, 2004. The record contains several documents, including a job description of appellant's special agent position and statements of a supervisor and a coworker, which support appellant's account of his undercover and interviewing work. The Board has held that stress reactions to situations in which an employee is trying to meet his position requirements are compensable.¹³ Appellant's numerous undercover operations

⁹ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

¹⁰ *Id.*

¹¹ Appellant also indicated that he and Mr. Lewis had to rush in order to conduct a large number of interviews and noted that it was difficult to find some of the residences of the interviewees.

¹² Appellant also indicated that he felt responsible for the suicide of a taxpayer who was the subject of the Philadelphia investigation and noted that in 2000 an undercover agent who was a friend was kidnapped and almost killed in Puerto Rico.

¹³ See *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

between 1984 and 2003 and conducting interviews between February 4 and 6, 2004 would be directly related to his regular duties as a special agent.

Appellant also alleged that he sustained stress because he did not get along with the case agent on the San Francisco investigation and asserted that the two had “huge personality differences.” However, an employee’s mere dislike of or disagreement with a supervisor would constitute frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable under the Act.¹⁴ Appellant claimed that he sustained stress in 2002 because residuals of employment-related low back and right shoulder injuries caused him to wonder if he would be able to work again. However, the Board has held insecurity about maintaining a position is not a compensable factor of employment under the Act.¹⁵

Appellant has established compensable employment factors with respect to participating in numerous undercover operations between 1984 and 2003 and conducting interviews between February 4 and 6, 2004. However, appellant’s burden of proof is not discharged by the fact that he has established employment factors which may give rise to a compensable disability under the Act. To establish his occupational disease claim for an emotional condition, appellant must also submit rationalized medical evidence establishing that he has an emotional or psychiatric disorder and that such disorder is causally related to an accepted compensable employment factor.¹⁶

Appellant submitted reports from Dr. Garden, an attending Board-certified internist specializing in cardiovascular disease, but they would not establish his claim that he sustained an employment-related cardiac condition. Dr. Garden generally indicated that appellant’s cardiac condition was related to the stress of his employment. However, the reports are of limited probative value on the relevant issue of the present case because they do not provide sufficient explanation addressing how appellant’s cardiac condition was related to the two specific employment factors that he established, *i.e.*, participating in numerous undercover operations between 1984 and 2003 and conducting interviews between February 4 and 6, 2004.¹⁷

For example, in a March 15, 2004 report, Dr. Garden stated: “Federal law enforcement is a physically and emotionally demanding profession and the stress of his employment has, in all likelihood, contributed to his cardiac condition.” In a report dated August 30, 2004, Dr. Garden noted that the stress inherent in appellant’s “chosen profession has in all likelihood contributed to his cardiac condition, *i.e.*, coronary artery disease and the need for coronary angioplasty.” On February 14, 2005 Dr. Garden stated that there was “no question that the stress of his

¹⁴ See *Michael Thomas Plante*, 44 ECAB 510, 515 (1993).

¹⁵ See *Artice Dotson*, 42 ECAB 754, 758 (1990); *Allen C. Godfrey*, 37 ECAB 334, 337-38 (1986). Appellant also indicated that he felt responsible for the suicide of a taxpayer who was the subject of the Philadelphia investigation and noted that in 2000 an undercover agent who was a friend was kidnapped and almost killed in Puerto Rico. However, he did not provide sufficient detail regarding these claimed incidents to establish that they were directly related to his duties as a special agent or otherwise constituted employment factors.

¹⁶ See *William P. George*, 43 ECAB 1159, 1168 (1992).

¹⁷ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not relate an employee’s condition to an employment factor is of limited probative value on the issue of causal relationship).

employment has and has had an impact on his current status and prior cardiac condition” and he similarly noted in a March 7, 2005 report that “it is reasonable to say that within a degree of medical certainty, work-related stress has certainly contributed to [appellant’s] cardiac condition.” In these reports, Dr. Garden did not provide any details regarding which specific aspects of appellant’s special agent position he felt contributed to his cardiac condition. While restating his opinion on causal relationship the physician did not address in detail those factors of employment which would cause or aggravate appellant’s cardiac condition.

The record also contains reports of Dr. Benbow, an osteopath and emergency medicine physician for the employing establishment. These reports do not establish that appellant sustained an employment-related myocardial condition, as the physician opined that appellant’s cardiac condition was not employment related. In a March 10, 2004 report, Dr. Benbow posited that appellant’s February 6, 2004 myocardial infarction occurred due to his failure to control his obesity, heavy cigarette smoking and high blood pressure over a number of years and indicated that work-related stress would not have contributed to his infarction. In a March 17, 2005 report, Dr. Benbow stated that stress was not a risk factor in the development of appellant’s heart disease. He indicated that appellant had not adequately addressed his risk factors, including those relating to smoking, weight and glycemic and lipid levels and posited that he would suffer a myocardial infarction even if he worked in a low stress environment.

For these reasons, appellant did not submit sufficient medical evidence to show that he sustained an employment-related cardiac condition and the Office properly denied his claim.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a stress-related cardiac condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs' dated June 23, 2005 is affirmed.

Issued: March 9, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board