



falsely accused him of sexually harassing a coworker. He asserted that on March 17, 2003 Aloycia Woods, another supervisor who was off duty, made abusive remarks to him in front of coworkers and passengers at the airport. Appellant claimed that on August 26, 2003 management denied his request to receive medical attention at the airport facility and he had to drive himself to a local hospital.<sup>2</sup>

The Office accepted that appellant sustained an employment-related major depression, severe without psychotic behavior.<sup>3</sup> He was terminated from the employing establishment effective January 22, 2004 due to insubordination and failure to perform his duties.<sup>4</sup>

On October 8, 2004 appellant filed a Form CA-7 claiming that he had disability beginning January 22, 2004 due to his employment-related emotional condition.

Appellant submitted a January 27, 2004 report in which Dr. Mohammad Ahmad, an attending Board-certified psychiatrist, stated that appellant was seen for some emotional problems and was diagnosed with severe depression. Dr. Ahmad stated that it “seems to be related to his employment circumstances.” Dr. Ahmad indicated that appellant was taking antidepressants and asserted that he would not be able to perform his duties.

In August 2004, the Office referred appellant, the case record and a statement of accepted facts to Dr. Russell Prince, a Board-certified psychiatrist, for a second opinion evaluation of his emotional condition, including the extent of any employment-related disability.

In a report dated September 7, 2004, Dr. Prince discussed appellant’s personal and medical history, including the reported symptoms of his emotional condition such as sadness, crying episodes and obsessive ruminations about “having been abused in his work setting.” He stated that in the office appellant openly cried several times and exhibited poor eye contact, psychomotor retardation, and slowed cognition. Dr. Prince diagnosed major depression, severe without psychotic features. He stated:

“[Appellant], in my opinion, does suffer a psychiatric condition as a result of the accepted factor of employment. He has major depression, severe in intensity, secondary to humiliation experienced by him in the work setting. Additionally, he had physical signs of reaction to stress in the form of atypical chest pain....

“It is my opinion that [appellant] currently is unable to return to his work as a supervisory security screener. He is unable to do this as a result of the

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<sup>2</sup> The record contains a report detailing the medical treatment appellant underwent on August 26, 2003 which reveals that his reported chest pains did not appear to constitute an “acute chest syndrome.” It was noted that appellant displayed symptoms of depression. On September 11, 2003 appellant took a stress test which showed markedly abnormal results suggesting extensive antero-apical and lateral ischemia.

<sup>3</sup> The Office accepted that Ms. Woods made abusive remarks to appellant in front of coworkers and passengers and determined that the medical evidence showed that he sustained an emotional condition due to this employment factor.

<sup>4</sup> It appears that appellant was reimbursed for medical treatment related to his emotional condition, but that he did not receive any disability compensation.

impairment produced by his major depression. Additionally, it is my opinion that he is not at this time, capable of performing any type of employment, secondary to his lack of capacity currently to tolerate stress, demands and expectations and to withstand such demands in his work setting.”

By decision dated March 4, 2005, the Office denied appellant’s claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained disability on or after January 22, 2004 due to his employment-related emotional condition.

Appellant requested a hearing before an Office hearing representative regarding his claim. At the hearing, which was held on February 15, 2006, appellant discussed the actions of management in 2003 and contended that his employment-related emotional condition caused disability beginning January 22, 2004.<sup>5</sup>

By decision dated and finalized May 3, 2006, the Office hearing representative affirmed the March 4, 2005 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>6</sup> has the burden of establishing the essential elements of his claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>7</sup> The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable 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.<sup>8</sup>

Proceedings under the Act are not adversary in nature nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence. It has the obligation to see that justice

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<sup>5</sup> Appellant submitted documents concerning disciplinary actions taken by the employing establishment and resubmitted copies of medical reports.

<sup>6</sup> 5 U.S.C. §§ 8101-8193.

<sup>7</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>8</sup> *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

is done.<sup>9</sup> Accordingly, once the Office undertakes to develop the medical evidence further, it has the responsibility to do so in the proper manner.<sup>10</sup>

### ANALYSIS

The Office accepted that appellant sustained an employment-related major depression, severe without psychotic behavior. He was terminated from the employing establishment effective January 22, 2004 and later filed a claim alleging that he had disability beginning January 22, 2004 due to his employment-related emotional condition.

In August 2004, the Office referred appellant, the case record and a statement of accepted facts to Dr. Prince, a Board-certified psychiatrist, for evaluation of his emotional condition, including the extent of any employment-related disability. In a report dated September 7, 2004, Dr. Prince stated that in the office appellant openly cried several times and exhibited poor eye contact, psychomotor retardation and slowed cognition. He diagnosed major depression, severe without psychotic features, and stated that appellant's psychiatric condition was due to the accepted factor of employment. Dr. Prince indicated that appellant was currently unable to return to his work as a supervisory security screener as a result of the impairment produced by his major depression. He posited that he was not capable of performing any type of employment "secondary to his lack of capacity currently to tolerate stress, demands and expectations and to withstand such demands in his work setting."<sup>11</sup>

Although Dr. Prince's opinion is not sufficient to establish appellant's claim for a specific period of disability, it constitutes evidence that appellant sustained employment-related disability on or after January 22, 2004. The Office denied appellant's claim without further developing the medical evidence. As noted above, once the Office undertakes to develop the medical evidence further, it has the responsibility to do so in the proper manner.<sup>12</sup>

Therefore, the case should be remanded to the Office for further development of the medical evidence in order to determine whether appellant sustained disability on or after January 22, 2004 due to the accepted employment injury, major depression, severe without psychotic behavior. After such development as the Office deems necessary, it should issue an appropriate decision on appellant's entitlement to compensation.

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<sup>9</sup> *Russell F. Polhemus*, 32 ECAB 1066 (1981).

<sup>10</sup> *See Robert F. Hart*, 36 ECAB 186 (1984).

<sup>11</sup> The record also contains a January 27, 2004 report in which Dr. Ahmad, an attending Board-certified psychiatrist, stated that appellant was diagnosed with severe depression which "seems to be related to his employment circumstances" and provided an opinion that he would not be able to perform his work duties.

<sup>12</sup> *See supra* note 10 and accompanying text.

**CONCLUSION**

The Board finds that the case is not in posture for decision regarding whether appellant met his burden of proof to establish that he sustained disability on or after January 22, 2004 due to his employment-related emotional condition.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' May 3, 2006 decision is set aside. The case is remanded to the Office for proceedings consistent with this decision of the Board.

Issued: November 27, 2006  
Washington, DC

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

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board