

**United States Department of Labor
Employees' Compensation Appeals Board**

L.D., Appellant)

and)

DEPARTMENT OF HOMELAND SECURITY,)
TRANSPORTATION SECURITY)
ADMINISTRATION, MIAMI)
INTERNATIONAL AIRPORT, Miami, FL,)
Employer)

**Docket No. 07-171
Issued: January 16, 2008**

Appearances:
Stanley M. Rosenberg, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 24, 2006 appellant filed a timely appeal from decisions of the Office of Workers' Compensation Programs dated January 10 and September 28, 2006. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

This issue is whether appellant met his burden of proof to establish that he sustained a stress-related condition in the performance of duty causally related to factors of his federal employment.

FACTUAL HISTORY

On November 24, 2005 appellant, then a 47-year-old transportation security officer, filed a (Form CA-2,) occupational disease claim, alleging that factors of his federal employment

caused cardiac arrhythmias and atrial fibrillation. His supervisor noted that he was no longer screening luggage and was performing clerical duties at work.

In reports dated March 2 and 15, 2005, Dr. Lawrence Blacher, Board-certified in internal medicine and cardiovascular disease, noted that appellant had been hospitalized from January 20 to 30, 2005 when he underwent an electrophysiologic study. He recommended 30 days of bed rest and advised that appellant could return to full duty without restrictions on March 28, 2005. In reports dated June 1 and 28 and July 8, 2005, Dr. Blacher advised that appellant was hospitalized from May 22 to 27, 2005 for ablation surgery, needed 30 days of bed rest and should be off work until further notice. In a November 14, 2005 report, he reported that appellant had a known history of multiple episodes of cardiac dysrhythmias including both paroxysmal supraventricular tachycardia and recurrent atrial fibrillation which had required hospitalization. Dr. Blacher opined that "it seems that many of his episodes of arrhythmias are related to the stress of his job and he probably should be reassigned to an area that is less stressful." On November 15, 2005 appellant accepted a light-duty position with the employee support center/records department. The job duties were described as filing and sorting employee records and other administrative work.

By letter dated December 8, 2005, the Office informed appellant of the type evidence needed to support his claim, to include a comprehensive medical report from his physician with an explanation of how his work exposure caused his condition. The Office also requested that the employing establishment respond to the claim. Appellant stopped work on December 18, 2005 and did not return. In a decision dated January 10, 2006, the Office denied appellant's claim, noting that he did not respond to the December 8, 2005 letter.

On January 25, 2006 appellant requested "an appeal" of his denial and further alleged that he had panic attacks causally related to his federal employment. He described his regular employment duties as providing security and protection of air travelers, airports and aircraft, identifying dangerous objects in baggage, cargo, and/or on passengers and preventing those objects from being transported onto aircraft. Appellant stated that he was required to wand, pat down, operate x-ray machines, lift and screen baggage up to 70 pounds and perform ticket review using electronic and imaging equipment. He reported that he stood for up to eight hours without sitting and that the work environment was hectic and stressful due to noise from alarms and machinery, dealing with disruptive and angry passengers, time pressures and the requirement to identify and locate potentially life-threatening devices and devices intended to create mass destruction. Appellant stated that he was hired on October 13, 2002 and first experienced cardiac symptoms on January 15, 2003. He noted that the condition had worsened and alleged that it was aggravated by the constant vigilance required in the hectic stressful work environment. Appellant reported that, while he worked in a nonstressful environment in November 2005, in December 2005 he was returned to his regular duties and this caused a worsening of his condition.

Appellant also requested a review of the written record and submitted July 27 and August 13, 2004 reports in which Dr. Enrique J. Huertas, Jr., a cardiologist, noted that appellant had been under his care for some time. Dr. Huertas diagnosed supraventricular tachycardia and advised that appellant was hospitalized for monitoring and testing and that he could return to work on August 16, 2004. He stated that appellant's cardiac condition and medical regimen did

not restrict him from performing his regular job duties. On a November 11, 2005 form Dr. Blacher noted that appellant had a four-year history of recurrent cardiac arrhythmias and that each episode temporarily disabled him. He advised that appellant was currently stable but required continual follow up. By report dated February 8, 2006, Dr. Carlos A. Perez-Machado,¹ noted that appellant suffered severe panic attacks when working in a stressful environment and that his symptoms had worsened to the point that he was unable to work. He advised that appellant could not work in an environment that included noise from alarms and machinery or deal with angry passengers and time pressures, stating that appellant should be under the care of a psychiatrist. On February 17, 2006 Dr. Sebastian de la Maza, a psychiatrist, advised that appellant should not work. In a March 31, 2006 report, he diagnosed severe panic and depressive disorders. Dr. de la Maza stated that appellant felt threatened by his job situation and requirements and opined that his ability to perform was seriously hampered by fears. Dr. de la Maza advised that appellant's prognosis was guarded and that his diagnosis, by definition, affected his work performance and that he could not return to work for the foreseeable future.

On August 24, 2006 the employing establishment noted appellant's absences from work from July 20 through August 14, 2004, January 21 through March 28, April 28 through May 10, May 22 through August 3, August 23 through September 8, October 23 through November 14, and December 18, 2005 to the present. By decision dated September 28, 2006, an Office hearing representative affirmed as modified the January 10, 2006 decision. The hearing representative found that the evidence established that appellant was in the performance of duty at the time of his claimed condition as he was required to perform the job duties he described but that the evidence did not establish that his cardiac or emotional condition was causally related to the established employment factors.

LEGAL PRECEDENT

To establish his claim that he sustained a stress-related condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that he has an emotional or stress-related 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 stress-related condition.² 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.³

¹ Dr. Perez-Machado's credentials could not be ascertained.

² *Leslie C. Moore*, 52 ECAB 132 (2000).

³ *See Dennis J. Balogh*, 52 ECAB 232 (2001).

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,⁴ the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under the Federal Employees' Compensation Act.⁵ There are situations where an injury or illness has some connection with the employment but nevertheless does not come within coverage under the Act.⁶ When an employee experiences emotional stress in carrying out his or her employment duties and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his or her emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of the work.⁷

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁸ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.⁹ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

ANALYSIS

The Board agrees that due to the nature of his position, appellant's regular duties as a transportation security officer were stressful. These job duties are compensable factors of employment. The Board, however, finds that appellant failed to establish that he sustained either an emotional or a cardiac condition causally related to the employment factors. While appellant submitted a number of medical reports that generally opined that his condition was caused by work stress, none of the physicians provided a rationalized medical opinion identifying the specific job issues which they felt caused appellant's condition.

⁴ 28 ECAB 125 (1976).

⁵ 5 U.S.C. §§ 8101-8193.

⁶ See *Robert W. Johns*, 51 ECAB 137 (1999).

⁷ *Lillian Cutler*, *supra* note 4.

⁸ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ See *Leslie C. Moore*, *supra* note 9; (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹⁰ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

A physician's opinion on the issue of whether there is a causal relationship between a claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. To be considered rationalized, a physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors.¹¹

In his July and August 2004 reports, Dr. Huertas merely diagnosed supraventricular tachycardia and advised the appellant could return to work on August 14, 2004. He did not provide an opinion regarding the cause of appellant's condition and medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹²

Dr. Blacher merely noted appellant's hospitalizations and opined that appellant's episodes of arrhythmias were related to job stress and that he should be assigned to an area that was less stressful. Likewise, in his February 8, 2006 report, Dr. Perez-Machado noted that appellant suffered severe panic attacks when working in a stressful environment and advised that he should not work in an environment that included noise from alarms and machinery or deal with angry passengers and time pressures. In reports dated February 17 and March 31, 2006, Dr. de la Maza diagnosed severe panic and depressive disorders. He stated that appellant felt threatened by his job situation and requirements and opined that he could not work, concluding that his ability to perform was seriously hampered by his fears.

A mere conclusion without the necessary medical rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet the claimant's burden of proof. The medical evidence must also include rationale explaining how the physician reached the conclusion he or she is supporting.¹³ Furthermore, the possibility of a future injury does not constitute an injury under the Act.¹⁴ The Board finds these reports are of diminished probative value as they do not contain sufficient medical reasoning explaining the basis for the physicians' stated opinions from a medical perspective to demonstrate that the conclusions reached were sound, logical and rational.¹⁵

In assessing medical evidence, the number of physicians supporting one position or another is not controlling. The weight of such evidence is determined by its reliability, its probative value and its convincing quality. The factors that comprise the evaluation of medical evidence include the opportunity for and the thoroughness of physical examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of

¹¹ *Larry D. Dunkin*, 56 ECAB 220 (2004).

¹² *Willie M. Miller*, 53 ECAB 697 (2002).

¹³ *Beverly A. Spencer*, 55 ECAB 501 (2004).

¹⁴ *See Brenda L. DuBuque*, 55 ECAB 212 (2004).

¹⁵ *K.W.*, 59 ECAB ____ (Docket No. 07-1669, issued December 4, 2007).

analysis manifested and the medical rationale expressed in support of the physician's opinion.¹⁶ The opinion of a physician must be of reasonable medical certainty and must be supported by medical rationale explaining causal relationship.¹⁷

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a stress-related cardiac or emotional condition causally related to his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 28, 2006 is affirmed.

Issued: January 16, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

¹⁶ *Anna M. Delaney*, 53 ECAB 384 (2002).

¹⁷ *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).