

Appellant had undergone coronary artery bypass surgery on February 18, 2000, which was performed by Dr. M. Wayne Flye, a Board-certified cardiologist, who diagnosed hypertension and coronary artery disease.

On March 29, 2000 appellant underwent cardiac consultation provided by Drs. Elizabeth Tracy and Dr. Alan Braverman, Board-certified cardiologists, after being seen the previous month for substernal chest pain and electrocardiogram changes consistent with an anterolateral myocardial infarction. In a July 24, 2000 Form CA-20, Dr. Braverman indicated that appellant had coronary artery disease which required hospitalization. He indicated that her condition was not work related.

By decision dated February 27, 2001, the Office denied the claim, finding that appellant failed to establish a compensable work factor which could have contributed to her cardiac condition. By decision dated November 15, 2001, an Office hearing representative affirmed the February 27, 2001 decision. By nonmerit decision dated July 15, 2002, the Office denied reconsideration.

In a February 9, 2002 report, Dr. Rahmi R. Nakra, Board-certified in psychiatry and neurology, diagnosed the following conditions: major affective disorder, depression, severe and post-traumatic stress disorder (PTSD); coronary artery disease; carpal tunnel syndrome; and severe job-related stress. She stated:

“On examination, [appellant] was in a profound state of severe psychomotor agitation, severely down and depressed, hopeless, worthless, tearful, crying, sad, sobbing, with feelings of despair and severe work-related stress. There was no evidence of psychotic symptoms.... [Appellant] continues at this time to remain totally disabled.... [She] continues to remain severely depressed, anxious and continues to experience severe psychological stress secondary to her work-related situation and remains disabled.”

In a March 4, 2002 report, Dr. Tracy stated:

“[Appellant] is disabled based on the following:

- (1) Coronary artery disease status post acute myocardial infarction February 17, 2000 requiring coronary artery bypass grafting [on] February 18, 2000. She has persistent fatigue, dyspnea with exertion and palpitations. An echocardiogram [EKG] in January 2001 showed normal LV function;
- (2) Hyperthyroidism for which she is status post radioactive iodine ablation December 12, 2000. She is currently on thyroid replacement with normal lab values;
- (3) Carpal tunnel syndrome.
- (4) Depression. See note from Dr. Nakra.”

In a May 5, 2002 report, Dr. Nakra stated that she had initially seen appellant for her diagnosed conditions on March 28, 2001, but that the date of onset was 1990. She stated:

“On initial evaluation, [appellant] was in a profound state of severe psychomotor agitation, severely down and depressed, hopeless, worthless, tearful, crying, sad, sobbing with feelings of despair and severe work-related stress. There was no evidence of any psychotic symptoms. There is no history of alcohol or substance abuse.... [Appellant] continues to remain totally disabled at the time of this dictation. Patient continues to remain severely depressed, anxious and continues to experience severe psychological stress secondary to her work-related situation and remains disabled.”

In a decision dated December 9, 2002,¹ the Board affirmed the Office decisions denying appellant’s claim for benefits based on an emotional condition. The Board found that appellant had not substantiated a compensable work factor as contributing to the claimed conditions of stress, coronary disease and a heart attack. The Board noted that, although appellant alleged that the September 20, 1990 decision from the EEO had ordered the employing establishment to reinstate appellant to her former position, the record did not contain a copy of the decision.

On September 15, 2003 appellant requested reconsideration. In support of her claim, she submitted a copy of the September 1990 EEO decision ordering the employing establishment to reinstate her to her former position. By decision dated December 9, 2003, the Office denied modification of its prior decisions. It stated that the evidence submitted by appellant consisted of settlement agreements that did not establish error or abuse by the employing establishment. In a decision dated July 9, 2004,² the Board set aside the December 9, 2003 Office decision. The Board found that appellant had submitted probative and reliable evidence of a compensable work factor with regard to an action of the employing establishment; *i.e.*, her termination in 1987. The Board therefore found that the Office was required to make findings regarding this evidence. It therefore remanded the case to the district office for a determination of whether appellant had established that she sustained an injury causally related to a compensable work factor. The complete facts of this case are set forth in the Board’s July 9, 2004 decision and are herein incorporated by reference.

By decision dated August 20, 2004, the Office denied appellant’s emotional condition claim. The Office accepted the EEO decision and termination as a compensable factor of employment. It found, however, that the medical evidence of record did not establish that appellant’s claimed emotional condition was causally related to the accepted employment factor. The Office stated that the medical evidence appellant had submitted was not sufficient to establish that she had sustained her emotional condition in the performance of duty.

By letter dated September 17, 2004, appellant requested an oral hearing, which was held on July 26, 2005.

¹ Docket No. 02-2025 (issued December 9, 2002).

² Docket No. 04-813 (issued July 9, 2004).

In an August 23, 2005 report, Dr. Nakra stated:

“[Appellant] has been a patient under my care since March 28, 2001. Extensive documentation dating from 1987 relating that [appellant] has very severe anxieties and stress[-]related conditions secondary to situations at the workplace. When the patient filed EEO complaints further harassment and reprisals were experienced by her. All of these events have continued to cause severe anxiety that resulted in her suffering from [PTSD] also significantly contributing to physical symptoms including coronary artery disease.

“The patient continues to do very poorly, continues to be severely anxious, tearful, depressed and hyper, labile, etc. She also continues to suffer from [PTSD] symptoms.”

By decision dated November 3, 2005, an Office hearing representative affirmed the August 20, 2004 decision.

By letter dated November 1, 2006, appellant requested reconsideration. Appellant submitted an October 25, 2006 report from Dr. Nakra who stated:

“[Appellant] was initially seen March 28, 2001 and at that time my working diagnosis was [m]ajor [a]ffective [d]isorder, [d]epression, [s]evere and PTSD Axis II; None, Axis III: [c]oronary [a]rtery [d]isease, [c]arpal [t]unnel [s]yndrome, Axis IV: [s]evere job-related stress, Axis: 45.

“[Appellant] has provided extensive documentation dating back from [the] February 24, 1987 incident, when she was terminated due to her race, but was reinstated by [the employing establishment]. Subsequent to that she experienced a very hostile environment at her workplace which has all been documented in the enclosed list including November 1991, December 1992, July 1994, August 1995 [and] September 1996. It is to be noted that she was included in settlement on November 10, 2004 by [the employing establishment]. Details of specific incidents are included as stated previously.

“My initial diagnosis based on [appellant’s] prior work record, which was impeccable and her having to work in a very hostile work environment in a severe state of anxiety, resulted in contributing significantly to her severe coronary artery disease, PTSD, which [appellant] continues to suffer since then. [Appellant] continues doing poorly and severely anxious.

“In [the] final conclusion the stress [appellant] experienced at work [was] directly related to work-related issues. She has continued to work in a very hostile environment, stemming back to [her] 1987 EEO complaint.

“Leading up to February 17, 2000, [appellant] experienced severe chest pain and left work, then was taken to the hospital that night with a diagnosis of a heart attack

and severe coronary disease. She was then hospitalized and had to undergo bypass grafts.”

Appellant also submitted a statement from [the employing establishment] which reviewed her work history and the various EEO complaints she had filed throughout her career.

By decision dated February 2, 2007, the Office denied appellant’s request for modification. The Office found that Dr. Nakra’s October 25, 2006 report was not sufficient to establish that appellant’s claimed emotional condition was causally related to the accepted employment factor.

LEGAL PRECEDENT

To establish that an emotional condition was sustained in the performance of duty there must be factual evidence identifying and corroborating employment factors or incidents alleged to have caused or contributed to the condition, medical evidence establishing that the employee has an emotional condition and rationalized medical opinion establishing that compensable employment factors are causally related to the claimed emotional condition.³ There must be evidence that implicated acts of harassment or discrimination did, in fact, occur supported by specific, substantive, reliable and probative evidence.⁴

The first issue to be addressed is whether appellant has cited factors of employment that contributed to her alleged emotional condition or disability. Where the disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within the coverage of the Act.⁵ On the other hand, disability is not covered where it results from an employee’s fear of a reduction-in-force, frustration from not being permitted to work in a particular environment or to hold a particular position, or to secure a promotion. Disabling conditions resulting from an employee’s feeling of job insecurity or the desire for a different job do not constitute a personal injury sustained while in the performance of duty within the meaning of the Act.⁶

ANALYSIS

In the instant case, the Office accepted one incident as compensable, *i.e.*, her 1987 termination from work. The Board finds that, given the circumstances described by appellant and accepted as factual by the Office hearing representative, the 1987 termination incident constitutes a compensable factor of employment.⁷

³ See *Debbie J. Hobbs*, 43 ECAB 135 (1991).

⁴ See *Ruth C. Borden*, 43 ECAB 146 (1991).

⁵ *Lillian Cutler*, 28 ECAB 125 (1976).

⁶ *Id.*

⁷ *Mary J. Summers*, 55 ECAB 730 (2004).

However, appellant's burden of proof is not discharged by the fact that she has established an employment factor which may give rise to a compensable disability under the Act. To establish her occupational disease claim for an emotional condition, appellant must also submit rationalized medical evidence establishing that she has an emotional or psychiatric disorder and that such disorder is causally related to the accepted compensable employment factor.⁸ Appellant submitted reports dated February 9 and May 5, 2002, August 23, 2005 and October 25, 2006 from Dr. Nakra. None of these reports, however, contained a rationalized medical opinion, based on a proper factual and medical background, explaining her opinion on causal relationship or otherwise relating her diagnosis to the factor found compensable in this case. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁹ Dr. Nakra does not provide a complete factual background or provide an opinion relating appellant's 1987 termination as a causative factor to her diagnosed emotional condition. Although Dr. Nakra presented diagnoses of appellant's condition, she did not adequately address how these conditions were causally related to the 1987 termination. The reports indicate that appellant was harassed at work and experienced stress at the worksite due to a hostile work environment, which resulted in her conditions of coronary artery disease, major affective disorder, depression, severe and PTSD. However, Dr. Nakra's reports merely present summary conclusions that appellant's conditions were causally related to the accepted employment factor. The record also contains cardiology reports from Drs. Wayne, Braverman and Tracy from 2000 and 2002, but none of these physicians related appellant's coronary artery disease and myocardial infarction to factors of appellant's employment. There is therefore insufficient rationalized evidence in the record that appellant's emotional condition was work related.

For these reasons, the Board finds that appellant did not submit sufficient medical evidence to establish that appellant sustained an emotional condition causally related to her compensable work factor.

CONCLUSION

The Board finds that the Office properly found that appellant failed to meet her burden of proof to establish that she sustained an emotional condition in the performance of duty.

⁸ See *William P. George*, 43 ECAB 1159, 1168 (1992).

⁹ See *Anna C. Leanza*, 48 ECAB 115 (1996).

ORDER

IT IS HEREBY ORDERED THAT the February 2, 2007 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: June 10, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board