

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELIAS A. PAULIDES and U.S. POSTAL SERVICE,
POST OFFICE, Long Beach, NY

*Docket No. 99-2098; Submitted on the Record;
Issued October 19, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has any continuing disability on or after April 19, 1977 causally related to his accepted employment injury.

The Board has duly reviewed the case on appeal and finds that appellant has no continuing disability on or after April 19, 1977 causally related to his accepted employment injury.

Appellant, a mail carrier, filed a claim on August 18, 1975 alleging that he developed an emotional condition due to his federal employment. The Office of Workers' Compensation Programs accepted his claim for temporary aggravation of chronic paranoid schizophrenia ceasing on April 19, 1977 by decision dated October 3, 1978. Appellant requested reconsideration on February 24, 1999. By decision dated May 17, 1999, the Office denied modification of its October 3, 1978 decision.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.² Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.³ To

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition, which require further medical treatment.⁴

In this case, appellant's attending physician, Dr. H. Chartock, a psychiatrist, released appellant to return to regular work on April 18, 1977 with no restrictions.

The Office referred appellant for a second opinion evaluation with Dr. Jerry Weisfogel, a Board-certified psychiatrist, on January 25, 1978.⁵ He diagnosed schizophrenia, paranoid type, chronic, severe in remission. Dr. Weisfogel opined that appellant's employment factors served to "accelerate and aggravate" appellant's preexisting schizophrenia. He stated that appellant was totally disabled from August 8, 1975 to April 18, 1977. Dr. Weisfogel noted that appellant was employed from July 5, 1997 to December 23, 1997 and again from February 2, 1978 until the date of the report on February 21, 1978. The Office medical adviser concurred with this opinion regarding causal relationship and the period of disability.

At the time the Office issued its July 24, 1979 decision accepting that appellant's employment resulted in a temporary exacerbation of his preexisting emotional condition and finding that his disability ceased on April 18, 1977, there was no medical evidence supporting continuing disability. As there was no medical evidence supporting continuing disability on or after April 18, 1977 the Office met its burden of proof to terminate appellant's compensation benefits as of that date.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that he had disability causally related to his accepted employment injury.⁶ To establish a causal relationship between the condition, as well as any disability claimed and the employment injury, the employee must submit rationalized medical opinion evidence, based on a complete factual background, supporting such a causal relationship. 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. The weight of medical evidence is determined by its reliability, its

⁴ *Id.*

⁵ The Board notes that the Office refers to Dr. Weisfogel as an impartial medical examiner. However, at the time of the Office referral to Dr. Weisfogel, there was no medical evidence in the record stating that appellant's emotional condition was not aggravated by his employment. Section 8123(a) of the Federal Employees' Compensation Act provides, "If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination." As there was no disagreement, Dr. Weisfogel is not an impartial medical examiner and his report is not entitled to the extra weight accorded the report of such an examiner. *Rosie E. Garner*, 48 ECAB 220, 225 (1996).

⁶ *George Servetas*, 43 ECAB 424, 430 (1992).

probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁷

Following the July 24, 1979 decision, appellant, through his representative, submitted additional medical evidence. Dr. Chartock completed a report on September 17, 1982 and stated that appellant had a regression and mental breakdown in January 1982, which resulted in hospitalization. He noted that appellant had a breakdown in 1975 and that this was related to appellant's employment, which aggravated a residual emotional condition, which had been steadily improving. Dr. Chartock stated that appellant was currently totally disabled. Although he provided a limited history of injury, this report does not provide an opinion that appellant's disability in 1982 was causally related to his employment. Without the necessary medical opinion evidence and supporting medical rationale, this report is not sufficient to establish an additional period of disability causally related to appellant's employment factors.

Dr. Ashok Bhatt, a Board-certified psychiatrist, completed a note on February 14, 1985 and stated that appellant was unable to work productively due to his emotional condition. On August 7, 1985 Dr. O. Quentin Hyder, a Board-certified psychiatrist, diagnosed chronic schizophrenia, paranoid type and stated that appellant was unable to work. These reports are not sufficient to meet appellant's burden of proof in establishing continuing disability causally related to this accepted employment exposures. Neither Dr. Bhatt nor Dr. Hyder provided a history of injury, or an opinion on the causal relationship between appellant's condition and disability and his employment.

On January 4, 1986 Dr. Chartock noted that appellant was hospitalized for his condition in February 1982. He stated that appellant only returned to work for one month in 1977 and could work no more. Dr. Chartock stated that appellant was totally disabled and that his diagnosed condition of schizophrenia paranoid type was aggravated by depression due to his inability to work. Dr. Chartock stated that appellant's condition was precipitated on August 8, 1975 while employed and was aggravated by harassment. He stated that appellant was totally disabled.

This report is not sufficient to meet appellant's burden of proof. Dr. Chartock does not provide a clear opinion that appellant's current condition and disability is causally related to the accepted employment exacerbation. Furthermore, he does not provide medical reasoning explaining how and why appellant's condition continues to be aggravated by his employment factors more than 10 years after the incidents occurred.

Dr. Hyder completed a report on February 3, 1986 and stated that he was treating appellant for chronic paranoid schizophrenia. He stated that appellant required continuing medical care and that appellant was disabled and unemployable. This report is not sufficient to meet appellant's burden of proof in establishing continuing disability causally related to his accepted employment injury. Dr. Hyder did not mention appellant's history of injury and did not provide an opinion on the causal relationship between appellant's current condition and disability and his accepted employment exacerbation, which ceased on April 18, 1977.

⁷ *James Mack*, 43 ECAB 321 (1991).

On April 15, 1991 Dr. Elliot Grant, a clinical psychologist, completed a report noting that appellant was hospitalized in 1973, 1975 and 1982. He stated that appellant had been unemployed for many years and was currently unemployable. This report is not sufficient to meet appellant's burden of proof as Dr. Grant did not provide a diagnosis, a history of injury nor an opinion on the causal relationship between appellant's current disability and his accepted employment exacerbation of schizophrenia ending in 1977.

Dr. Edgar Gerstein, a Board-certified psychiatrist, completed a report on December 17, 1994. He stated that he first examined appellant in October 1993. Dr. Gerstein stated that appellant has not worked for 10 years. He noted appellant's current symptoms and stated, "Because of the traumatic nature of [appellant's] psychotic episodes on August 8, 1975, I personally feel and believe that his current condition mentally and emotionally may have been precipitated on August 8, 1975 while he was a postal carrier; furthermore, it may have been aggravated by harassment and pressure by the [employing establishment]."

Although Dr. Gerstein provides an opinion that appellant's current condition may have been causally related to his employment injury, he failed to provide a detailed history of injury and failed to provide medical reasoning explaining why he believes that the accepted employment events, which contributed to the August 8, 1975 psychotic episode, continue to affect appellant's mental and emotional conditions. Therefore, this report is not sufficient to meet appellant's burden of proof in establishing continuing disability causally related to his accepted employment factors.

As appellant has failed to submit the necessary rationalized medical opinion evidence based on a proper factual background, he has failed to meet his burden of proof in establishing continuing disability causally related to his federal employment.

The May 17, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 19, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member