

the termination of appellant's accepted conditions. The Board, however, remanded the case to the Office for referral of appellant, the case record and a statement of accepted facts to an appropriate impartial medical specialist to resolve the conflict in medical evidence regarding whether appellant's ongoing emotional condition of post-traumatic stress disorder was causally related to the February 8, 1999 fall.¹ The Board noted that the conflict in medical evidence arose between Dr. Charles Turk, a Board-certified neurologist and psychiatrist, and Dr. Dixon F. Spivy, a Board-certified psychiatrist and Office referral physician, as to whether appellant's psychiatric condition was causally related to the work incident of February 8, 1999. Dr. Turk had opined that appellant's psychiatric condition was related to the February 8, 1999 incident, by direct causation and aggravation. However, Dr. Spivy opined that appellant's ongoing psychiatric condition was the natural progression of a preexisting disease and the escalator trauma of February 8, 1999 was merely a coincidental factor. The findings of fact and conclusions of law from the prior decision are hereby incorporated by reference.

In accordance with the remand order issued by the Board to resolve the conflict of opinion between Drs. Spivy and Turk with regard to whether appellant's psychiatric condition was related to the work incident of February 8, 1999, the Office, by letter dated June 24, 2003, referred appellant, together with the medical record, a statement of accepted facts and a list of questions, to Dr. Nelson Borelli, a Board-certified psychiatrist, for an impartial medical opinion. After examining appellant on July 25, 2003 and observing certain neurological observations, Dr. Borelli requested a consultation with a neurologist and approval for a magnetic resonance imaging (MRI) scan before rendering his decision. The Office authorized those requests and appellant was examined by Dr. E. Richard Blonsky, a Board-certified psychiatrist with a specialty in neurology, on July 28, 2003 and underwent an MRI scan on August 6, 2003.

In an August 21, 2003 medical report, Dr. Blonsky advised that he obtained a detailed history from appellant, performed a comprehensive neurological examination and reviewed his medical records along with the recent MRI scan. The physician stated that, based on his examination, he was unable to detect any neurologic abnormalities. Because of appellant's history of head trauma and the apparent lack of an MRI scan of the brain, Dr. Blonsky ordered an MRI scan of the brain, which was performed on August 6, 2003. He advised that the August 6, 2003 MRI scan study was essentially normal with one very small, nonspecific area of increased uptake in the left parietal lobe. Dr. Blonsky stated that this was most likely an artifact and, even if it did represent some type of "lesion," it would not impact motor, cognitive or sensory function. He found no evidence of cerebral or cortical atrophy, ventricular enlargements, encephalomalacia or hemorrhage. Dr. Blonsky opined that there was no evidence of brain injury with any residual effect. He further opined that there were no objective neurologic abnormalities affecting appellant.

In an August 29, 2003 report, Dr. Borelli related appellant's history, reviewed the medical record and described his findings on examination, which showed a number of suspicious signs and explained why he was prompted to consult with a well-qualified neurologist. Dr. Borelli opined that appellant did not exhibit objective signs of disease, as demonstrated by her prior examinations of record and the most recent neurological examination and MRI scan by

¹ See *Priscilla Smith-Lutcher*, Docket No. 02-1542 (issued November 1, 2002).

Dr. Blonsky. Dr. Borelli ruled out the suggestion that appellant had a serious mental illness such as schizophrenia. He advised that the disease starts in the late teens and worsens over time to the point of complete deterioration. Dr. Borelli stated that appellant's background of a relatively successful job, financial and family history prior to 1999 rules out that she ever suffered from the disease. Based on appellant's background, Dr. Borelli further ruled out the possibility that she developed any other significant psychiatric disease as a consequence of a mild fall (without physical injury) and/or some internal squabbles with her coworkers. He noted, however, that there might be a temporal correlation between the break-up with her husband of 13 years and the deterioration of her work performance. The physician stated that divorce and family dissolution can be devastating and that the denial of the real trauma and displacement of the same into a pseudo trauma "helps" appellant cope with the painful tragedy. Dr. Borelli opined that this was most likely the cause and nature of appellant's problem. He stated that this was a personal problem which appellant has not faced, but had displaced into an "incident" of dubious validity.

By decision dated September 5, 2003, the Office denied appellant's claim that a psychiatric condition resulted from her work injury of February 8, 1999 as the weight of the medical evidence failed to indicate that there was a causal relationship between the work injury and any psychiatric complaints.

LEGAL PRECEDENT

To establish causal relationship between the claimed disability and the employment injury, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.²

ANALYSIS

In the present case, appellant suffered a traumatic fall in the work incident of February 8, 1999 and thereafter developed an emotional condition. As previously stated, the Board found in its November 1, 2002 decision that a conflict in medical opinion evidence existed between Dr. Spivy, a Board-certified psychiatrist, and Dr. Turk, a Board-certified psychiatrist, with regard to whether appellant's psychiatric condition was related to the work incident of February 8, 1999. Section 8123(a) provides that, if there is a 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.³ Appellant was subsequently referred to Dr. Borelli, a Board-certified psychiatrist.

The Board has held that, when a case is referred to an impartial medical specialist for the purpose of resolving a conflict in medical opinion evidence, the opinion of the specialist, if sufficiently well rationalized and based on a proper medical background, must be given special weight.⁴ In his initial examination of appellant on July 25, 2003, Dr. Borelli properly requested

² *Manuel Gill*, 52 ECAB 282 (2001).

³ 5 U.S.C. § 8123(a); *Lynda J. Olson*, 52 ECAB 433 (2001).

⁴ *Manuel Gill*, *supra* note 2; *Michael Hughes*, 52 ECAB 387 (2001).

advice from a neurologist in order to gain a complete understanding of appellant's neurological signs as it was outside his realm of expertise and this information was required in order to provide a rationalized opinion of the issue of whether there was a causal relationship between appellant's emotional condition and the February 8, 1999 work incident.⁵ In his August 29, 2003 report, Dr. Borelli related appellant's history, described his findings on examination and explained, with sound rationale, why appellant was not suffering from any emotional condition causally related to the work injury of February 8, 1999. He explained that appellant did not exhibit objective signs of disease as demonstrated by her examination of record and the most recent neurological examination and MRI scan by Dr. Blonsky. Based on appellant's background, he ruled out mental illness as well as the possibility that other significant psychiatric disease could have developed as a consequence of the fall and/or internal squabbles with her coworkers. The Board finds that Dr. Borelli's opinion is based on a proper background and is sufficiently rationalized to establish that appellant does not have an emotional condition causally related to the work injury of February 8, 1999. Dr. Borelli's opinion, thus, constitutes the weight of the medical evidence of record.⁶

CONCLUSION

The Board finds that the weight of the medical evidence establishes that appellant had not established that her emotional condition arose out of the work incident of February 8, 1999.

⁵ See *Jimmie H. Duckett*, 52 ECAB 332 (2001).

⁶ Appellant submitted additional evidence after the Office's September 5, 2003 decision, but the Board cannot consider such evidence for the first time on appeal; see 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 5, 2003 is affirmed.

Issued: April 13, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member