
In the Matter of the Compensation of
CHRISTOPHER ZEGGERT, Claimant
WCB Case No. 11-06103
ORDER ON REVIEW
David C Force, Claimant Attorneys
Gress & Clark LLC, Defense Attorneys

Reviewing Panel: Members Lanning and Lowell.

Claimant requests review of Administrative Law Judge (ALJ) Otto's order that upheld the insurer's denial of his occupational disease claim for a mental disorder. On review, the issue is compensability.

We adopt and affirm the ALJ's order with the following supplementation.

We do not find that the opinion of Dr. Wicher, who examined claimant at the insurer's request, sufficiently establishes the compensability of claimant's mental disorder claim. ORS 656.266(1); ORS 656.802(2), (3). In reaching this conclusion, we acknowledge that Dr. Wicher opined that claimant's mental condition was caused in major part by his work experiences. (Ex. 82-9-10).¹ Nevertheless, Dr. Wicher's description of claimant's work-related stressors included employment conditions "generally inherent in every working situation or reasonable disciplinary, corrective or job performance evaluation actions by the employer, or cessation of employment or employment decisions attendant upon ordinary business or financial cycles." ORS 656.803(b); *see Liberty Northwest Ins. Corp. v. Shothafer*, 169 Or App 556, 565-66 (2000) (a claim for a mental disorder under ORS 656.802(3)(b) is compensable only if work-related causes that are not statutorily excluded out weigh all other causes combined).

In particular, we note Dr. Wicher's statement that claimant "reports a considerable amount of interpersonal conflict with disagreements over methods and policies." (Ex. 82-9). However, the record establishes that these conflicts, such as changes in job duties, management, and procedures, are "generally inherent in every working situation." (*See Exs. 15, 22, 23, 27, 31, 33, 36, 38, 39, 41, 43, 44, 45, 80-9-18, -31-39, 82*). *Kelly D. Shepard*, 61 Van Natta 592, 598 (2009), *aff'd without opinion*, 237 Or App 212 (2010) (differences in supervisory style "generally inherent" in all working situations); *Lisa L.*

¹ Dr. Lu, claimant's treating physician, concurred with Dr. Wicher's opinion. (Ex. 87).

Washington, 57 Van Natta 405, 410 (2005) (changes in employment policy consistent with the employer's goal of efficiency and accountability “generally inherent”); *Leanna J. Duchek*, 54 Van Natta 1149, 1151 (2002) (interpersonal conflict between the claimant and a coworker was a common stressor generally inherent in every working situation).

Dr. Wicher specifically agreed that such work-related factors were “generally inherent” in every working situation. (Ex. 82-9-10). Dr. Wicher’s opinion did not weigh nonexcluded work-related factors against excluded work-related factors and nonwork-related factors combined in determining the cause of claimant’s mental disorder claim. Under these circumstances, claimant has not established the compensability of his mental disorder claim. ORS 656.266(1); ORS 656.802(2), (3); *Shothafer*, 169 Or App at 565-66 (2000); *Danny Bundy*, 64 Van Natta 510 (2012) (mental disorder claim not compensable where medical opinion did not weigh excluded work-related factors combined with nonwork-related factors against nonexcluded work-related factors in determining major contributing cause). Consequently, we affirm.

ORDER

The ALJ’s order dated May 15, 2012 is affirmed.

Entered at Salem, Oregon on October 16, 2012