

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DORIS STEWART,)
) No. 609, 2003
 Appellant,)
 Appellee-Below,) Court Below: Superior Court
 v.) of the State of Delaware in
) and for New Castle County
)
 STATE OF DELAWARE,) C.A. No. 02A-05-010
)
 Appellee,)
 Appellant-Below.)

Submitted: April 13, 2004
Decided: April 29, 2004

Before **BERGER, STEELE**, and **JACOBS**, Justices.

ORDER

This 29th day of April 2004, upon consideration of the briefs of the parties, it appears to the Court as follows:

1. The Claimant, Doris Stewart, has worked for the Department of Services for Children, Youth, and their Families of the State of Delaware for over twenty years. Stewart works in the child investigation unit, providing support to five co-workers, assisting with technical paperwork, and performing occasional fieldwork. She claims that she developed major depression as a result of her work that rendered her temporarily totally disabled from November 19, 2001 until March 18, 2002.

2. Stewart alleges her job-related depression resulted from stress caused by the death of Sergio, a foster care child, on November 17, 2001. Two days later, she sent out an e-mail requesting prayer and comfort for Sergio. Stewart was reprimanded for sending the e-mail because it violated rules regarding confidentiality and exceeded professional bounds. Stewart claims that she lost her voice the day following the reprimand. She later suffered from significant weight loss, diarrhea, and sleep-deprivation. Stewart also claims that she had difficulty concentrating, and that she became forgetful.

3. Dr. Barbara Belford, a psychologist, diagnosed Stewart as having major depression. Dr. Belford found Stewart's condition to be the result of nine stressors, five of which were job-related. In January 2002, Dr. Jay Gilbert Weisberg, a psychiatrist, opined that Stewart suffered from major depression without psychosis. Although both doctors agreed that her condition was not solely related to work, Dr. Weisberg opined that the job related stress was a major cause of Stewart's depression.

4. The record, however, reveals many other factors that may have contributed to Stewart's condition. They include: (1) Sergio's death, (2) the reprimand resulting from her e-mail about Sergio,¹ (3) the difficulty of getting sufficient office supplies at her workplace, (4) the difficulty she had interacting

¹ Claimant was not formally disciplined at the meeting but was told that she "would be" at some later time.

with her coworkers, (5) the recent murder of her stepson,² (6) a car accident in which she was involved, (7) ongoing marital problems,³ (8) the fact that Thanksgiving was the anniversary of the death of both her grandmother and step-mother, (9) the fact that her husband had recently been laid off from work; and, (10) the recent surgical removal of an ovarian cyst with an associated fear of ovarian cancer.⁴

5. At an April 15, 2002 Worker's Compensation Hearing, an officer addressed three alleged work-related stressors.⁵ The hearing officer held that any stress related to Stewart's inability to obtain office supplies was not an objective source of stress. The hearing officer also determined that Sergio's death was not an objective source of stress. The reprimand about the e-mail, however, was found to be an objective source of stress and also a substantial cause of her condition. The hearing officer cited the significance of the timing of the reprimand in relation to the onset of Stewart's symptoms of depression. Accordingly, the Industrial Accident Board ("IAB") awarded Stewart compensation and attorney's fees. The State appealed to the Superior Court.

6. We address three issues on appeal: (1) whether the Superior Court judge erred as a matter of law by reversing the IAB decision because he

² Stewart's step-son was killed on October 26, 2001.

³ Stewart and her husband were separated in December 2001.

⁴ Claimant had surgery in September 2001.

⁵ The death of Sergio, the office supplies problem, and the reprimand about the e-mail.

improperly retried the case presented below; (2) whether the Superior Court judge erred by reversing the IAB decision because the medical evidence satisfied the “substantial cause” standard; and (3) whether the Superior Court judge’s reversal violated this Court’s holding in *Reese v. Home Budget Center*.⁶

7. The standard of review for decisions of the Industrial Accident Board is limited to whether there is substantial evidence in the record to support the Board’s factual findings.⁷ Decisions supported by substantial evidence will not be disturbed if they are free from legal error.⁸ Substantial evidence is relevant evidence that a reasonable person might accept as being adequate to support a decision.⁹

8. On appeal, the Superior Court judge concurred with the finding that Stewart’s reprimand was an objective source of stress and that it constituted a triggering event.¹⁰ The judge found reversible legal error, however, because the hearing officer improperly equated the triggering event (“*but for*”) with the “substantial cause” of her condition.¹¹ This appeal followed.

⁶ 619 A.2d 907 (Del. 1992).

⁷ 29 Del. C. §10142(d); *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

⁸ *Asplundh Tree Expert Co. v. Clark*, 369 A.2d 1084 (Del. Super. 1975).

⁹ *Oceanport Ind. V. Wilmington Stevendores*, 939 A.2d 892, 899 (Del. 1994).

¹⁰ In other words, the judge agreed with the hearing officer that *but for* the reprimand, Stewart would not have manifested the symptoms of her depression.

¹¹ The judge held “when the Hearing Officer accepted Dr. Weisberg’s testimony and found this triggering ‘but for’ testimony equated to the substantial factor standard, he committed a legal error which undermined his findings in this particular area.”

9. First, Stewart argues that the judge erred by essentially re-trying the facts of the case. This argument is misguided. The Superior court judge reversed on the basis of a legal error by the hearing officer. The hearing officer determined that because Stewart's loss of voice and other depression-related symptoms manifested themselves the day after a reprimand by her supervisor, the reprimand must also represent the "substantial cause" of her condition. It is not disputed that the reprimand "triggered" Stewart's symptoms. But the hearing officer erred in determining that "the question is whether the recent action did [cause depression], when combined with the additional stressors Claimant had recently had." The Superior Court judge acted appropriately because the proper analysis should have included whether the reprimand, *itself*, was the "substantial cause" of her depression.¹² The trial judge concluded that the hearing officer erred reversibly by applying the wrong analytical tool; that is, by using a "but for" analysis where the facts called for using the "substantial cause" test. Thus, the hearing officer committed reversible legal error.

10. Next, Stewart insists that the medical evidence clearly demonstrates that the reprimand was a "substantial cause" of her condition. A claimant must meet two requirements to be compensated for a mental injury that is caused by

¹² Here, the judge cited *State v. Cephas*, 637 A.2d 20, 27 (Del. 1994) and explained that "The *Cephas* court held that the "substantial cause" test is appropriate where the claimant's mental injury was not a result of a specific trauma, but rather due to gradual and ordinary job-related stress. As noted by the Court, this is distinguished from the "but for" test, which is applicable when there is a specific, identifiable work-related accident."

work-related stress: (1) a claimant must offer evidence demonstrating objectively that the work conditions were actually stressful; and, (2) the conditions must be a substantial cause of a claimant's disability.¹³ While Stewart argues that five of the nine stressors were work-related, the hearing officer found that only the e-mail reprimand was an objective source of work-related stress. The trial judge found insufficient evidence in the record to support the hearing officer's conclusion that that single objective source or work-related stress constituted a substantial cause of Stewart's depression.

11. The hearing officer relied on the opinions of Stewart's treating doctors, Dr. Belford and Dr. Weisberg, to find that work-related stress was a substantial cause of Claimant's disability. Specifically, Dr. Weisberg stated:

. . . I believe that the job related stress was a major factor in Ms. Stewart's depression at least fifty percent if not more. Some of this may have been due to problems with the e-mail, with the disciplining *or with interactions, a lot of it was due to interpersonal interactions with coworkers, but nevertheless I believe these interactions were the cause of the depression.* So, I believe that the job stress was a major cause of her depression. (emphasis added)

12. Dr. Weisberg's testimony, however, like much of the record, simply does not support a finding that the reprimand, of itself, was a substantial cause of Stewart's depression. Although Dr. Weisberg testified that "job stress" was a "major cause" of her depression, he was referring not only to the reprimand but

¹³ 637 A.2d at 27.

also to Stewart's interactions with co-workers. Indeed, Dr. Weisberg's testimony suggests that "a lot" of Stewart's work related stress came from "interpersonal interactions with co-workers", a factor not found to be an objective source of work-related stress. Like the Superior Court judge, we do not believe that this record supports the hearing officer's conclusion that the reprimand was a substantial cause of Stewart's depression.¹⁴ The judge, unlike the hearing officer, properly considered other potentially significant sources of stress in Stewart's life during the months before she was diagnosed with her condition. After careful and thorough consideration of those other potential factors, the judge properly found that the only reasonable conclusion based on the record was that the reprimand may have "triggered," but did not represent a "substantial cause," of Stewart's condition.

13. Finally, Stewart argues that the judge's ruling violated this Court's holding in *Reese v. Home Budget Center*.¹⁵ *Reese* involved psychological injuries resulting from a specific work-related physical injury. Moreover, the "but-for" analysis in *Reese* applied to a claim "linked to a specific undisputed work-related accident," which made it, "unnecessary to quantify causation where there is no

¹⁴ The judge held "after reviewing the record presented to the Hearing Officer, it is shocking to the Court that one could reasonably and logically conclude that the disciplinary meeting was a substantial cause of the Claimant's depression justifying the disability claim."

¹⁵ 619 A.2d 907 (Del. 1992).

dispute that a specific accident contributed to the condition.”¹⁶ Accordingly, *Reese* is inapposite because here Stewart was not involved in a work-related accident that resulted in a physical injury.

NOW, THEREFORE, IT IS ORDERED, that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

/s/ Myron T. Steele
Justice

¹⁶ *Id.* at 911.