

Legal Brief

Mental or Emotional Stress Injuries in the Workplace



For well over a decade, Pennsylvania courts have classified emotional or mental stress work injuries into three categories: physical stress or trauma causing a mental disability; mental stress causing a physical disability; and mental stress or injury causing a mental disability.

PHYSICAL-MENTAL

The first category commonly referred to as "Physical-Mental" is perhaps the most prevalent. Typically, the employee experiences a physical injury or trauma that leads to depression, anxiety and, in some cases, post traumatic stress disorder. In these cases, the claimant needs only show that the emotional or mental injury is causally related to the original physical injury.

MENTAL-PHYSICAL

The second category of injury, "Mental-Physical," has had a somewhat confusing development with regard to the burden of establishing such injuries. Approximately 10 years ago, Pennsylvania courts held that an employee attempting to establish mental stress caused a pure physical injury was required to establish the presence of an "abnormal working condition." More recently, the Pennsylvania Supreme Court eliminated the need for showing an abnormal working condition in the Mental-Physical category of claims.

In *Panyko v. WCAB (U.S. Airways)*, 888 A.2d 724 (2005), the Pennsylvania Supreme Court held that proof of an abnormal working condition is not required when a claimant is alleging workers' compensation benefits for a purely physical injury. In *Panyko*, the purely physical injury was a heart attack. The claimant had experienced symptoms during a confrontational meeting with his employer and was subsequently hospitalized and diagnosed as suffering from a cardiac event. In eliminating the need for a claimant to establish the presence of an abnormal working condition in a Mental-Physical case,

the Supreme Court noted that the "abnormal working condition" requirement was established primarily to address concerns created by the subjective nature of purely mental or emotional injuries. Physical injuries such as heart attacks are objective in nature and less susceptible to manipulation or the result of a subjective reaction to normal working conditions.

MENTAL-MENTAL

The third category of mental injuries is the "Mental-Mental" claim. Here, an employee must establish the presence of "abnormal working conditions." The Supreme Court of Pennsylvania declared over 18 years ago "[a] claimant must produce objective evidence which is corroborative of his subjective description of the working conditions alleged to have caused the psychiatric injury. Because psychiatric injuries are by nature subjective, we believe that if a claimant has met his burden of proving the existence of a psychiatric injury, he cannot rely solely upon his own account of working environment to sustain his burden of proving that the injury was not caused by a subjective reaction to normal working conditions." *Martin v. Ketchum, Inc.*, 568 A.2d 159, 164 (1990). The Court declared that an employee has the burden of proving that his psychiatric injury is more than a subjective reaction to normal working conditions. Thus, the term "abnormal working condition" was developed and is used as a shorthand expression to describe the significant burden required in cases involving subjective injuries or reactions.

What constitutes an "abnormal working condition" must be analyzed and evaluated in the context of the specific job performed by the claimant. Highly stressful, emotionally charged and/or shocking environments are not necessarily "abnormal working conditions." For example, exposure to violent crimes, death or catastrophic injuries are not abnormal to law

enforcement officers or fire and rescue personnel. Likewise, firings, layoffs, demotions, pay cuts also can be considered normal work conditions.

Recently, some courts have held that violent, extremely foul or abusive language and other offensive behaviors from supervisors to employees can constitute "abnormal working conditions." Hence, reports or complaints of such conduct should not be taken lightly. Comprehensive and well-documented performance evaluations, prompt investigation into employee complaints, open and controlled methods of communication, exhaustive post-claim investigation and competent claim management are effective ways to reduce an employer's exposure to workers' compensation claims related to mental or emotional stress.

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