

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF  
INDUSTRIAL ACCIDENTS**

**BOARD NO. 011958-91**

Lincoln E. Smith  
City of Boston  
City of Boston

Employee  
Employer  
Self-insurer

**REVIEWING BOARD DECISION**

(Judges Horan, Costigan and Fabricant)

**APPEARANCES**

Thomas C. McDonough, Esq., for the employee

John T. Walsh, Esq., for the self-insurer

**HORAN, J.** This employee's appeal presents the question of whether the administrative judge's denial of benefits for a hypertension condition, claimed to be a sequela of work-related depression, was arbitrary and capricious. The judge denied the claim on the basis of res judicata, insofar as a prior hearing decision had denied that the employee's hypertension was *directly* related to the 1986 work injury. As a result of oral argument on this appeal, both parties were permitted to supplement their briefs to address causal relationship of the hypertension as a sequela. Having reviewed those supplemental materials, we affirm the decision.<sup>1</sup>

The employee suffered a compensable emotional injury on June 23, 1986, when he was wrongfully terminated from work. That emotional injury was the subject of a 1993 hearing decision awarding the employee a closed period of partial incapacity benefits. (Dec. 5.) That hearing decision also denied the employee's claim of injury-related hypertension and chest pains. The employee did not appeal. (Joint Ex. 1; Dec. 6.)

In this proceeding, the employee claims his hypertension is compensable as a *sequela* to his emotional injury. The employee's proof of a causal relationship, however, is lacking. The employee's supplements to his reviewing board brief establish nothing more than a

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<sup>1</sup> The employee's supplemental brief highlighted extracts from the documentary evidence admitted at hearing. Among other documents relied upon, the employee cited the § 11A report of Dr. Donald Wexler. We need not consider Dr. Wexler's opinion, as the administrative judge specifically rejected it. (Dec. 8.)

possible causal relationship. In the deposition testimony of Dr. John J. Mooney, the most the doctor ventures is that the employee's emotional disorders "would be expected to potentially worsen an existing state of hypertension." (Mooney Dep. 25.) Dr. Mooney never opines that the hypertension *more likely than not* is causally related to the employee's work-related emotional problems. Dr. Mooney's initial psychiatric evaluation and report of February 8, 1994 mentions that the employee's "stress even under recent years has contributed to his hypertension," but that "it is quite likely there is some other etiology as well which I do not know at this time." (Employee Ex. 6.) This statement also falls short of establishing that the employee's work-related stress, emanating from his 1986 firing, is causative of the employee's hypertension. Dr. Mooney's March 18, 1997 report speaks in terms of the employee's depression and his hypertension developing "together in time." ( Id. ) On this record, a temporal relationship, without more, is insufficient to establish causal relationship. The employee failed to provide the administrative judge with any competent evidence to carry his burden on the issue of causal relationship. Accordingly, the decision is affirmed.<sup>2</sup>

So ordered.

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Mark D. Horan  
Administrative Law Judge

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Patricia A. Costigan  
Administrative Law Judge

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Bernard W. Fabricant  
Administrative Law Judge

**Filed:** May 5, 2008

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<sup>2</sup> We summarily affirm the decision as to all other issues raised by the employee on appeal.