

## **Hedblum, Robert**

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### **CAUSAL RELATIONSHIP**

#### **Psychologist**

A licensed clinical psychologist is competent to testify on the issue of the cause of mental conditions. ....*In re Robert Hedblum, BIIA Dec., 88 2237 (1989)* [Editor's Note: The Board's decision was appealed to superior court under Thurston County Cause No. 89-2-02751-5.]

### **INJURY (RCW 51.08.100)**

#### **"Physical conditions"**

#### **Psychiatric conditions (mental/mental)**

Where the worker has shown through competent expert testimony that he developed a mental condition as a result of a sudden emotional stress during the course of employment, he has presented sufficient proof that he has suffered an industrial injury. The worker need not show that the stress was "unusual," or that it "arose out of" employment. ....*In re Robert Hedblum, BIIA Dec., 88 2237 (1989)* [Editor's Note: The Board's decision was appealed to superior court under Thurston County Cause No. 89-2-02751-5.]

Scroll down for order.

**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS  
STATE OF WASHINGTON**

1 **IN RE: ROBERT A. HEDBLUM** ) **DOCKET NO. 88 2237**  
2 )  
3 **CLAIM NO. K-307268** ) **DECISION AND ORDER**  
4 \_\_\_\_\_ )

5 APPEARANCES:

6  
7 Claimant, Robert A. Hedblum, by  
8 Connolly, Holm, Tacon, McPhee & Meserve, per  
9 Avelin P. Tacon, III

10  
11 Employer, U.S. Intelco Networks, Inc., by  
12 Fristoe, Taylor & Schultz, Ltd., P.S., per  
13 Tad A. Sowers

14  
15 Department of Labor and Industries, by  
16 The Attorney General, per  
17 Stephen T. Reinmuth and Deborah Lazaldi, Assistants  
18

19 This is an appeal filed by the claimant on May 26, 1988 from an order of the Department of  
20 Labor and Industries dated April 27, 1988 adhering to the Department order of October 9, 1987  
21 rejecting the claim on the basis that the condition was not the result of the exposure alleged; that  
22 there was no industrial injury as defined by the industrial insurance laws; that the condition  
23 preexisted the alleged injury and was not related thereto; and that the condition was not an  
24 occupational disease as contemplated by RCW 51.08.140. **REVERSED AND REMANDED.**  
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28 **DECISION**

29 Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review  
30 and decision on a timely Petition for Review filed by the claimant to a Proposed Decision and Order  
31 issued on April 18, 1989 in which the order of the Department dated April 27, 1988 was affirmed.  
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34 The Board has reviewed the evidentiary rulings in the record of proceedings and finds that  
35 no prejudicial error was committed and said rulings are hereby affirmed.  
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37 The issues presented by this appeal and the evidence presented by the parties are  
38 adequately set forth in the Proposed Decision and Order.  
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40 Mr. Hedblum alleges he suffered an industrial injury or developed an occupational disease  
41 during the course of his employment as a senior analyst programmer with U.S. Intelco Networks,  
42 Inc. on April 18, 1987. On Saturday, April 18, 1987 Mr. Hedblum was working overtime to  
43 complete a computer program scheduled to go into production on Monday, April 20th. Shortly after  
44 beginning work on Saturday, Mr. Hedblum informed his supervisor that he had "lost the program."  
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1 Believing he had completely deleted the program and it could not be reconstructed by Monday, Mr.  
2 Hedblum became anxious and confused. He left the building stating he needed some fresh air. He  
3 never returned to work for U.S. Intelco.  
4

5 Mr. Hedblum sought help from Stephen M. Langer, a clinical psychologist. Mr. Hedblum's  
6 condition was diagnosed as an anxiety reaction, which Dr. Langer attributed to the emotional stress  
7 caused by Mr. Hedblum's work situation at U.S. Intelco on August 18, 1987.  
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10 We agree with the analysis set forth in the Proposed Decision and Order that Mr. Hedblum  
11 has not established that he suffers from an occupational disease as defined by RCW 51.08.140.  
12 However, we disagree with the conclusion of the Industrial Appeals Judge that the incident of April  
13 18, 1987 did not constitute an industrial injury.  
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16 Based on his interpretation of Sutherland v. Dept. of Labor & Indus., 4 Wn.App. 333, 481  
17 P.2d 453 (1971), the Industrial Appeals Judge concluded that only emotional stress of an "unusual"  
18 nature could constitute an industrial injury as that term is defined in RCW 51.08.100. We disagree  
19 with this interpretation. We believe that the court in Sutherland referred to "unusual" emotional  
20 stress because the medical condition developed by the claimant in that case was a heart attack.  
21 Under Windust v. Dept. of Labor & Indus., 52 Wn.2d 33, 323 P.2d 241 (1958), a heart attack is not  
22 compensable as an industrial injury unless it is caused by "unusual" physical exertion or emotional  
23 stress. Mr. Hedblum did not suffer a heart attack, but developed a mental condition as a result of  
24 the emotional stress occurring during the course of his employment on the morning of April 18,  
25 1987. In this case, there is no requirement that the emotional stress be of an "unusual" nature.  
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31 See In re Laura Cooper, BIIA Dec., 54,585 (1981) at 4.  
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33 We turn then to the question of whether Mr. Hedblum has established a causal relationship  
34 between the mental condition he developed and his sudden realization that the computer program  
35 had been erased and lost. The only health care provider to testify was Dr. Langer, the clinical  
36 psychologist who treated Mr. Hedblum seven times between May 12, 1987 and July 16, 1987.  
37 Before we can determine if the testimony of Dr. Langer is sufficient to establish a prima facie case,  
38 we must decide whether, under the industrial insurance laws, a clinical psychologist is qualified to  
39 give an opinion on the causal relationship between a mental condition and an event occurring at  
40 work.  
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45 In 1973, this Board addressed the question of whether a chiropractor is qualified as an  
46 expert witness to testify as to the causal relationship between a claimant's low back condition and  
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1 his on- the-job injury. In re Everett Pfenniger, BIIA Dec., 41,425 (1973). Based on our  
2 determination that chiropractic is recognized as a special field of the healing arts, we recognized  
3 that a chiropractor can testify as to the causal relationship of those conditions which fall within the  
4 scope and field of practice of a chiropractor's license.  
5

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7 The recent Court of Appeals decision in Dobbins v. Commonwealth Aluminum Corp., 54  
8 WnApp 788, \_\_\_\_P.2d\_\_\_\_(1989) is not inconsistent with this view. Dobbins merely held that the  
9 trial court did not abuse its discretion by excluding chiropractic testimony on the question of causal  
10 relationship, since that testimony went beyond the scope of chiropractic practice as authorized by  
11 the Washington statute. Thus, even though the witness in Dobbins was licensed to practice  
12 chiropractic under the broader scope of the Oregon statute, his testimony could be excluded since it  
13 related to a knee condition, an area which is beyond the scope of a Washington chiropractic  
14 license. However, nothing in Dobbins disturbs our determination in Pfenniger that a chiropractor is  
15 not precluded from testifying with respect to the causal relationship of a back condition to an  
16 industrial injury so long as the testimony is within the area of expertise encompassed by the  
17 definitional statute, RCW 18.25.005.  
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19  
20 The Legislature has determined that as a safeguard for the people of this state,  
21 psychologists, like chiropractors, are required to be licensed. RCW 18.83.020. The practice of  
22 psychology, as defined by statute, includes counseling and guidance and the use of  
23 psychotherapeutic techniques with clients who have adjustment problems in the family, at school, at  
24 work, or in interpersonal relationships. RCW 18.83.101(1). By regulation, the specific functions of  
25 a psychologist may include mental health counseling. WAC 308-122-400.  
26

27  
28 With respect to industrial insurance claims, a psychologist is defined as a "practitioner".  
29 WAC 296-20-01002. The Department's regulations state: "Only that treatment which falls within  
30 the scope and field of the practitioner's license to practice will be allowed as treatment to an injured  
31 worker." WAC 296-20-015. Following the reasoning set forth in Pfenniger, we find that a licensed  
32 clinical psychologist can testify on the issue of causal relationship as to mental conditions -- matters  
33 that fall within the scope and field of practice of a clinical psychologist's license.  
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36 What we have before us, then, is a mental/mental industrial injury case. Mr. Hedblum is held  
37 to no greater or lesser burden of proof on the question of the causal relationship of his psychiatric  
38 condition to on-the-job stress than would apply in any industrial injury case.  
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1 The sole expert witness to testify was Dr. Langer; his opinion that the stressful on-the-job  
2 incident of April 18, 1987 caused Mr. Hedblum's anxiety reaction therefore stands un rebutted.  
3 Furthermore, the connection between the two simply makes sense.  
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5 On April 18, 1987, Mr. Hedblum discovered that a code was missing from the program he  
6 was working on and that he would not be able to meet the April 20, 1987 deadline for project  
7 completion. He told his supervisor and left the building. After driving around aimlessly for a  
8 number of hours, he went home. In the late evening of April 18, 1987 he related the events of the  
9 day to his wife and indicated he was never going to return to work at Intelco. Indeed he did not  
10 return to work on the following Monday. Instead, his wife found him "huddled up" in the bathroom  
11 and he refused to call his employer.  
12

13 After a visit to his family doctor, he was referred to Dr. Langer, who first saw him on May 12,  
14 1987 and diagnosed an anxiety reaction caused by on-the-job stress. While it is apparent from Dr.  
15 Langer's testimony that the unfortunate incident of April 18, 1987 acted upon Mr. Hedblum's  
16 preexisting psychological makeup, it is equally apparent that under our industrial insurance scheme  
17 we must take workers as we find them. See Metcalf v. Dept. of Labor & Indus., 168 Wash. 305, 11  
18 P.2d 821 (1932). Additionally, it is clear that the requirements of proof for an industrial injury are  
19 not as stringent under our system as the requirements of proof for an occupational disease. An  
20 industrial injury need not arise naturally and proximately out of employment; it must only occur  
21 during the course of employment. Proof that an on-the- job incident proximately caused the  
22 condition complained of will suffice. Furthermore, the objective corroboration requirements  
23 imposed by Favor v. Dept. of Labor & Indus., 53 Wn.2d 698, 336 P.2d 382 (1959) as to  
24 mental/mental and mental/physical occupational disease cases, are not applicable to industrial  
25 injury cases.  
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27 Finally, the clear distinction between a mental/mental industrial injury and a mental/mental  
28 occupational disease is apparent from the legislative enactment of RCW 51.08.142 in 1988.<sup>1</sup> While  
29 this statute directed the Department to adopt a rule "that claims based on mental conditions or  
30 mental disabilities caused by stress do not fall within the definition of occupational disease in RCW  
31 51.08.140", it was silent with respect to mental/mental industrial injuries. The Department WAC  
32 promulgated pursuant to RCW 51.08.142 specifically provides that "[s]tress resulting from exposure  
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<sup>1</sup> This statutory provision is not retroactive to the present claim, but illustrates the clear distinction which is made  
between a mental/mental occupational disease and a mental/mental industrial injury.

1 to a single traumatic event will be adjudicated with reference to RCW 51.08.100", i.e., the industrial  
2 injury statute. WAC 296-14-300(2).  
3

4 For the foregoing reasons we have viewed this record in the same manner as we would view  
5 any record raising the issue of whether the worker has sustained an industrial injury within the  
6 meaning of RCW 51.08.100. Based on the fact that Dr. Langer has been licensed as a  
7 psychologist in the State of Washington since 1984; that he treated Mr. Hedblum seven times  
8 between May 12, 1987 and July 16, 1987, releasing him to return to work as of June 16, 1987; that  
9 he set forth specific findings to support his conclusions; and that no expert witnesses were  
10 presented to contradict his diagnosis and conclusions, we accept Dr. Langer's opinion that there is  
11 a causal relationship between the particular emotional stress Mr. Hedblum experienced on the job  
12 on the morning of April 18, 1987, and the anxiety reaction which was produced as an immediate  
13 result.  
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19 After consideration of the Proposed Decision and Order and the Petition for Review filed  
20 thereto, and a careful review of the entire record before us, we are persuaded that Mr. Hedblum  
21 has established that he suffered an industrial injury within the meaning of RCW 51.08.100 on April  
22 18, 1987.  
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### 25 **FINDINGS OF FACT**

- 26
- 27 1. On April 29, 1987, the claimant filed an accident report with the  
28 Department of Labor and Industries alleging that he had suffered an  
29 industrial injury or a condition caused by an occupational disease on  
30 April 18, 1987 while working for U.S. Intelco Networks, Inc. On October  
31 9, 1987, the Department issued an order rejecting the claim for the  
32 reasons that the condition was neither the result of an industrial injury  
33 nor an occupational disease, and that the condition preexisted the  
34 alleged injury and was not related thereto.

35 On October 14, 1987, the claimant filed a protest and request for  
36 reconsideration of the Department's order of October 9, 1987. On  
37 November 24, 1987, the Department issued an order holding its  
38 previous order of October 9, 1987 in abeyance. On April 27, 1988, the  
39 Department issued an order indicating that the claim would remain  
40 rejected pursuant to its previous order of October 9, 1987.

41 On May 26, 1988, a notice of appeal of the Department's order of April  
42 27, 1988 was filed by the claimant with the Board of Industrial Insurance  
43 Appeals. On June 14, 1988 the Board issued an order granting the  
44 appeal, assigning it Docket No. 88 2237 and directed that proceedings  
45 be held on the issues raised.  
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- 1 2. As of April 18, 1987, the claimant was employed by U.S. Intelco  
2 Networks, Inc., as a senior analyst programmer.  
3  
4 3. On the morning of April 18, 1987 the claimant was working overtime in  
5 an attempt to complete a computer program scheduled to go into  
6 production on Monday, April 20, 1987. The claimant inadvertently  
7 deleted the program which meant the project could not be completed on  
8 schedule.  
9  
10 4. After realizing that the work on the program had been lost, the claimant  
11 suffered an anxiety reaction for which he received psychotherapy from a  
12 licensed clinical psychologist from May 12, 1987 through July 16, 1987.  
13 The anxiety reaction was caused by the emotional stress which  
14 occurred during the course of claimant's employment on the morning of  
15 April 18, 1987.

16 **CONCLUSIONS OF LAW**

- 17 1. The Board of Industrial Insurance Appeals has jurisdiction over the  
18 parties and the subject matter to this appeal.  
19  
20 2. On April 18, 1987 the claimant suffered an industrial injury as that term  
21 is defined in RCW 51.08.100.  
22  
23 3. The order of the Department of Labor and Industries dated April 27,  
24 1988 adhering to the provisions of a Department order of October 9,  
25 1987 which rejected the claim on the basis that the condition was not  
26 the result of the exposure alleged; that there was no industrial injury as  
27 defined by the industrial insurance laws; that the condition preexisted  
28 the alleged industrial injury and was not related thereto; and that the  
29 condition was not an occupational disease, is incorrect and is reversed  
30 and this claim is remanded to the Department of Labor and Industries to  
31 issue an order allowing the claim as an industrial injury occurring on  
32 April 18, 1987 and to take further action as indicated.

33 It is so ORDERED.

34 Dated this 26<sup>th</sup> day of October, 1989.

35 BOARD OF INDUSTRIAL INSURANCE APPEALS

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37  
38 /s/  
39 SARA T. HARMON Chairperson

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42 /s/  
43 FRANK E. FENNERTY, JR. Member

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46 /s/  
47 PHILLIP T. BORK Member