

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA R. WILLIAMS and U.S. POSTAL SERVICE,
LIVERNOIS STATION, Detroit, Mich.

*Docket No. 95-2527; Submitted on the Record;
Issued March 4, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained a recurrence of disability on July 31, 1992 causally related to her April 17, 1991 employment-related acute anxiety condition.

On April 17, 1991 appellant, then a 30-year-old letter carrier, sustained acute anxiety when a customer grabbed mail from her hand. Appellant returned to work on April 23, 1991 with the restriction of no outside work.

In a form report dated April 19, 1991, Dr. D.L. McSwain, a general practitioner, related appellant's statement that she was attacked on her mail route by a man who took mail from her and that during the encounter, her right leg and right foot were injured.

In a written statement dated April 19, 1991, appellant related that on April 17, 1991 a man took mail from her and "would not let me go around him. My right leg -- right feet is hurting me[.] Also I am nervous."

In a report dated May 3, 1991, Dr. Abdul G. Riaz, a Board-certified psychiatrist, related appellant's statement as follows:

"April 17th I was doing my route, a man came up to me and wanted me to give his wife's mail to him. He even offered to pay some money for that. I told him that according to the regulations, I could not give him anybody else's mail. He pushed me and I got scared and panicked."

Dr. Riaz related that appellant knew the man and that he lived in her neighborhood. He related that she felt "uptight and nervous" but felt that she would "get over it."

In a form report dated September 2, 1992, Dr. McSwain diagnosed severe anxiety and checked the block marked "yes" indicating that the condition was causally related to appellant's

April 17, 1991 employment injury. He indicated that appellant was totally disabled commencing on July 31, 1992.

In a report dated October 15, 1992, Dr. Edward C. Dorsey, a Board-certified psychiatrist, provided a history of appellant's condition and stated that on July 21, 1992 her husband forbade her to leave the house to go to work because she was showing signs of stress after a transfer to a new station which involved some travel and commencement of her workday at 4:30 a.m. Regarding the incident on April 17, 1991, Dr. Dorsey stated:

"A man with whom she had superficial familiarity because he was on her route, confronted her and demanded the mail. At first she thought he was joking.... 'Then I saw the look in his eyes.' Apparently he was after his wife's check. He grabbed a stack of letters from her hands, and in the process she dropped her other mail. Apparently she did not strike the ground, and he did not pull a weapon on her. However, immediately afterwards, the assailant's relative came down and argued with him, whereupon he produced a revolver. Then the man ran away."

Dr. Dorsey related that appellant completed her route on the day of the incident but experienced nightmares that evening and subsequently was sick for two days. Sometime afterwards she saw a psychiatrist who recommended that she be transferred to inside work from carrier work. Dr. Dorsey diagnosed generalized depression and indicated that appellant was totally disabled. He stated:

"It is this examiner's opinion that the incident on April 17, 1991, while shocking, seemed rather insignificant otherwise, and seems ... to remain only as a symbolic value for her ongoing depression. [Her] nerve medication ..., while it reduces symptoms and permits work at the time, also might have the effect of retarding the resolution of the anxiety."

In a letter dated October 16, 1992, an employing establishment supervisor stated that appellant had not complained after the April 17, 1991 incident of being stressed out, paranoid, or afraid. The supervisor stated that appellant was a very outgoing individual not afraid of reaching out to others or offering advice, and that she was "always selling something." She related that after appellant reported to her new duty station following the April 17, 1991 incident, she showed no signs of hesitation or reservation in meeting unfamiliar faces. The supervisor noted that appellant had a restriction of no outside work yet on her lunch break she patronized the local stores. She noted that appellant complained about having to start work at 4:15 a.m. because it was difficult for her to wake up after staying up late participating in church activities.

In a report dated December 13, 1992, Dr. Rosalind E. Griffin, a Board-certified psychiatrist, related that she examined appellant on October 2, 1992 for symptoms which included insomnia, fatigue, mood swings and depression and related that the onset of these symptoms "were specific to the [employment incident] of April 17, 1991." She diagnosed major depression subsequent to the April 17, 1991 employment injury.

In a notice of recurrence of disability dated December 29, 1992, appellant alleged that she sustained a recurrence of total disability on July 31, 1992 which she attributed to her April 17, 1991 employment injury.

In a report dated January 6, 1993, a physician whose name is illegible related that appellant suffered severe depression after she was robbed while delivering mail. She related that appellant was forced to continue carrying mail after being robbed. The physician indicated that appellant was totally disabled and that her condition was directly related to her April 17, 1991 employment injury.

By decision dated March 18, 1993, the Office of Workers' Compensation Programs denied appellant's claim for compensation benefits.

By letter dated April 9, 1993, appellant requested an oral hearing before an Office hearing representative.

On November 29, 1993 a hearing was held before an Office hearing representative at which time appellant presented testimony.

Appellant subsequently submitted additional evidence. In a report dated May 3, 1991, Dr. Riaz, provided a history of appellant's condition and noted that following the April 17, 1991 employment injury appellant had been assigned to work inside the employing establishment rather than delivering mail. He stated:

"Since the incident she has been experiencing disturbing dreams, nervousness, difficulty in going outside the house and constantly reliving the episode in her thinking and her inability to shake that off."

Dr. Riaz provided the results of a mental examination and diagnosed post-traumatic disorder.

In a letter dated December 29, 1993, an employing establishment representative disputed appellant's claim for a recurrence of disability and stated that soon after the April 17, 1991 work incident appellant was selling dinners for her church and soliciting individuals with pamphlets for trips and various fund raisers.

In a report dated March 3, 1994, Dr. Dorsey stated:

"[Appellant] seems to have undergone a change in her life habits towards being a home-centered person....

"It remains this examiner's opinion that the event at work, while shocking, was in the total picture insignificant and not a cause of her disability.... The continuing antidepressant medication may be a factor...."

By decision dated April 7, 1994, the Office hearing representative affirmed the Office's March 18, 1993 decision denying appellant's claim for recurrence of disability, but reversed the

Office's decision terminating appellant's entitlement to medical benefits related to her April 17, 1991 employment injury.

By letter dated July 18, 1994, appellant requested reconsideration of the denial of her claim and submitted additional medical evidence.

In a report dated March 1, 1994, Dr. Leon M. Rubenfaer, a Board-certified psychiatrist, provided a history of the April 17, 1991 employment injury and noted that appellant had been placed on light duty inside the employing establishment subsequent to her employment injury. He diagnosed post-traumatic stress disorder, chronic and obsessive compulsive personality pattern and stated that appellant was totally disabled and "has been totally disabled since the last day she worked in 1992, but she may very well have been disabled even prior to that." However, he noted that appellant was "under no mental health care at the present time." Dr. Rubenfaer related that appellant had suffered a tremendous shock in the April 17, 1991 incident and was certain that she was going to be killed and that the problem was compounded by a continuation of the trauma, not through only flashbacks and nightmares, but also the fact that the individual involved in the incident continued to lived in her neighborhood.

By decision dated August 23, 1994, the Office denied modification of its April 7, 1994 decision.

By letter dated March 7, 1995, appellant requested reconsideration of the denial of her claim.

In a report dated January 3, 1995, Dr. Ahmad Kafi, a Board-certified psychiatrist, noted that appellant had been under his care since September 20, 1994. He related that on April 17, 1991, appellant was assaulted and robbed and pushed down. He related that appellant was placed in a low-stress sedentary job following her employment injury but felt that she was being harassed to go back to her former job as a letter carrier. Dr. Kafi related that appellant was transferred to a different location in May 1992 where she felt under more stress because she was going to work in the dark and that she became totally disabled for work on July 31, 1992. He diagnosed major recurrent depression and indicated that appellant remained totally disabled for work. Dr. Kafi stated:

"In my professional opinion, [appellant's] condition was a direct result of her injury. Although she did work for several months on restriction, the condition never improved, and she was not able to perform, due to the injury and the continued stress of her job, which aggravated her condition...."

By decision dated June 6, 1995, the Office denied modification of its March 18, 1993 decision.¹

¹ This case contains a document related to a claimant other than appellant. Upon return of the case record the Office should place this document in the correct file.

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained a recurrence of disability on July 31, 1992 causally related to her April 17, 1991 employment-related emotional condition.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.² This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.³ Where no such rationale is present, medical evidence is of diminished probative value.⁴

In this case, the Office accepted that appellant sustained acute anxiety on April 17, 1991 when a patron grabbed mail from her. Subsequently appellant was assigned to inside work at the employing establishment and was no longer required to deliver mail. In a notice of recurrence of disability dated December 29, 1992, appellant alleged that she sustained a recurrence of total disability on July 31, 1992 which she attributed to her April 17, 1991 employment injury.

In a form report dated September 2, 1992, Dr. McSwain diagnosed severe anxiety and checked the block marked “yes” indicating that the condition was causally related to appellant’s April 17, 1991 employment injury. He indicated that appellant was totally disabled commencing on July 31, 1992. The Board has held that an opinion on causal relationship which consists only of checking “yes” to a form report question on whether the claimant’s disability was related to the history given is of little probative value.⁵ Without any explanation or rationale, such a report has little probative value and is insufficient to establish causal relationship.⁶ Therefore this report is insufficient to establish that appellant sustained a recurrence of disability on July 31, 1992 causally related to the April 17, 1991 employment injury.

In a report dated October 15, 1992, Dr. Dorsey, a Board-certified psychiatrist, stated that “the incident on April 17, 1991, while shocking, seemed rather insignificant otherwise, and seems only to remain only as a symbolic value for her ongoing depression. The nerve medication that she was taking, while it reduces symptoms and permits work at the time, also might have the effect of retarding the resolution of the anxiety.” Dr. Dorsey provided no rationalized medical opinion attributing appellant’s claim of a recurrence of disability to the April 17, 1991 employment injury and, in fact, seemed to discount the incident as the cause of appellant’s complaints and speculated that her medication might be causing her anxiety. Therefore, this report does not discharge appellant’s burden of proof.

² *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

³ *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁴ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

⁵ *Deborah S. King*, 44 ECAB 203 (1992); *Donald W. Long*, 41 ECAB 142, 146 (1989).

⁶ *Id.*

In a report dated December 13, 1992, Dr. Griffin, a Board-certified psychiatrist, related that she examined appellant on October 2, 1992 for symptoms which included insomnia, fatigue, mood swings and depression and related that the onset of these symptoms “were specific to the [employment incident] of April 17, 1991. However, she provided no medical rationale for her opinion and therefore her opinion as to causal relationship is of limited probative value and is insufficient to establish appellant’s claim of an employment-related recurrence of disability.

In a report dated January 6, 1993, a physician related that appellant suffered severe depression after she was robbed while delivering mail. She noted that appellant suffered more mental stress after she was transferred to a different work location. She related that appellant was forced to continue carrying mail after being robbed. The physician indicated that appellant was totally disabled and that her condition was directly related to her April 17, 1991 employment injury. However, this report is not based upon an accurate factual background as this evidence of record establishes that appellant was not required to deliver mail following her return to work on April 23, 1991. Therefore, this report does not suffice to discharge appellant’s burden of proof.

In a report dated May 3, 1991, Dr. Riaz, a Board-certified psychiatrist, provided a history of appellant’s condition and noted that following the April 17, 1991 employment injury appellant had been assigned to work inside the employing establishment rather than delivering mail. He stated that since the incident she had been experiencing disturbing dreams, nervousness, difficulty in going outside the house and constantly reliving the episode in her thinking. Dr. Riaz provided the results of a mental examination and diagnosed post-traumatic disorder. However, he provided insufficient medical rationale explaining how appellant’s alleged recurrence of disability on July 31, 1992 was causally related to the April 17, 1991 employment injury, particularly in light of the fact that she was no longer required to deliver mail. Also, the description of appellant’s nervousness and difficulty in going outside her house seems to conflict with information provided by the employing establishment. In a letter dated October 16, 1992, an employing establishment supervisor stated that appellant had not complained after the April 17, 1991 incident of being stressed out, paranoid, or afraid. The supervisor stated that appellant was a very outgoing individual not afraid of reaching out to others, offering advice, and was “always selling something.” She related that after appellant reported to her new duty station following the April 17, 1991 incident, she showed no signs of hesitation or reservation in meeting unfamiliar faces. The supervisor noted that appellant had a restriction of no outside work yet on her lunch break she patronized the local stores. In a letter dated December 29, 1993, an employing establishment representative stated that soon after the April 17, 1991 work incident appellant was selling dinners for her church and soliciting individuals with pamphlets for trips and various fund raisers. This information from the employing establishment does not seem to bear out appellant’s complaint to Dr. Riaz that she had difficulty going outside of her house. Furthermore, Dr. Riaz provided insufficient medical rationale explaining how appellant’s claimed recurrence of disability in 1992 was causally related to the April 17, 1992 employment injury. Therefore, this medical report does not support appellant’s claim of an employment-related recurrence of disability.

In a report dated March 3, 1994, Dr. Dorsey stated that appellant seemed to have undergone a change in her life habits towards being a home-centered person. He stated his

opinion that the April 17, 1991 employment injury was not the cause of appellant's alleged recurrence of disability. Therefore, this report does not support appellant's claim of an employment-related recurrence of disability.

In a report dated March 1, 1994, Dr. Rubenfaer, a Board-certified psychiatrist, diagnosed post-traumatic stress disorder, chronic and obsessive compulsive personality pattern and stated that appellant was totally disabled. However he noted that appellant was under no mental health care at the time that he examined her. Dr. Rubenfaer related that appellant had suffered a tremendous shock in the April 17, 1991 incident and was certain that she was going to be killed and that the problem was compounded by a continuation of the trauma, not through only flashbacks and nightmares, but also the fact that the individual involved in the incident continued to live in her neighborhood. This report is not based upon an accurate factual background as the contemporaneous medical reports do not indicate that appellant felt she was going to be killed. In a form report dated April 19, 1991, Dr. McSwain related that a man took mail from appellant on April 17, 1991 and that during the encounter her right leg and right foot were injured. He did not relate any complaint from appellant that she feared for her life during the incident. In a report dated May 3, 1991, Dr. Riaz related that on April 17, 1991 a man asked appellant for his wife's mail and, when appellant refused, he pushed her and took mail from her and appellant was scared and panicked. Dr. Riaz did not relate that appellant felt that she was going to be killed. Furthermore, Dr. Rubenfaer did not explain why appellant was not being treated for her claimed emotional condition at the time that he examined her if her condition was so serious that she was totally incapacitated for work by the condition. Therefore this report does not support appellant's claim of an employment-related recurrence of disability.

In a report dated January 3, 1995, Dr. Kafi, a Board-certified psychiatrist, related that appellant was placed in a low-stress sedentary job following her employment injury but felt that she was being harassed to go back to her former job as a letter carrier. He related that appellant was transferred to a different location in May 1992 where she felt under more stress because she was going to work in the dark and that she became totally disabled for work on July 31, 1992. Dr. Kafi stated his opinion that appellant's condition was a direct result of her April 17, 1991 employment injury. However, he provided insufficient medical rationale explaining how appellant's claimed recurrence of disability in July 1992 was causally related to the April 1991 employment injury. Additionally, there is no evidence to support appellant's contention that she was being harassed to return to mail delivery. Therefore this report is not based upon an accurate factual background. For these reasons Dr. Kafi's report is insufficient to establish that appellant sustained a recurrence of disability causally related to the April 17, 1991 employment injury.

The decisions of the Office of Workers' Compensation Programs dated June 6, 1995 and August 23, 1994 are affirmed.

Dated, Washington, D.C.
March 4, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member