

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VALERIE R. ANSITE and U.S. POSTAL SERVICE,
POST OFFICE, Cottage Grove, OR

*Docket No. 97-2848; Submitted on the Record;
Issued September 21, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established any disability after April 30, 1994 that is causally related to her accepted temporary aggravation of a preexisting generalized anxiety disorder.

On May 14, 1993 appellant, then a 41-year-old part-time flexible distribution window clerk, filed an occupational disease claim, alleging that she sustained stress due to harassment while in the performance of duty. Appellant indicated that she first became aware of this condition on September 1, 1992 and realized it was causally related to her federal employment on April 5, 1993. By decision dated August 13, 1993, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record did not establish that she sustained an emotional condition while in the performance of duty. By decision dated May 9, 1994, an Office hearing representative vacated the August 13, 1993 decision of the Office and remanded the case for referral to an appropriate medical specialist to determine whether appellant sustained an emotional condition while in the performance of duty.¹ In a decision dated January 11, 1996, the Office accepted appellant's claim for temporary aggravation of preexisting generalized anxiety disorder which resolved no later than April 30, 1994. The Office indicated that appellant could file claims for wage loss prior to April 30, 1994. On October 21, 1996 appellant filed a claim for continuing compensation for the period September 1, 1992 through April 30, 1994. In a letter dated December 6, 1996, the Office found appellant was eligible for compensation during the requested time period. On December 16, 1996 appellant indicated that she continued to be totally disabled after April 30, 1994 and requested reconsideration of the January 11, 1996 decision. By decision dated March 5, 1997, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was not sufficient to warrant modification of the January 11, 1996 decision.

¹ The hearing representative found that appellant had established coworker harassment.

The Board finds that appellant has failed to establish disability after April 30, 1994 causally related to her accepted emotional condition.

In the present case, the Office determined that appellant established temporary aggravation of preexisting anxiety disorder. The Office found as compensable the following incidents of harassment by a coworker. Craig Dougherty, a coworker, made unwelcome remarks to appellant of a personal nature concerning what she would look like in lingerie; Mr. Dougherty touched her on the waist and shoulders and made her uncomfortable; Mr. Dougherty criticized her ineptitude on the computer and called her a 'princess' in a derogatory manner when she asked for preferential treatment with respect to hours of work and job assignments and that she was required to work overtime. The Office determined that the following stressors were not compensable factors of her employment: appellant's desire to have a position which did not require her to cover duties for absent coworkers; her desire to have certain days and hours off duty; her reaction to Mr. Dougherty's cessation of talking to her except concerning postal matters after February 23, 1993 and his addressing her by her surname; her reaction to reading a handwritten story by Mr. Dougherty involving a violent fantasy; her reaction to hearsay and gossip about Mr. Dougherty. The Office further found the following incidents were not established as factual: appellant unsupported belief that Mr. Dougherty made a pencil change in her schedule in February 1991 which caused her to believe that she had the day off; her belief that Mr. Dougherty arranged to have her mail for bank returned to the bank; her belief that Mr. Dougherty made a series of anonymous phone calls to her home.

Based on the second opinion examination report of Dr. Eugene E. Klecan, a Board-certified psychiatrist, the Office determined that appellant sustained a temporary aggravation of preexisting generalized anxiety disorder and further concluded that this condition resolved no later than April 30, 1994. Dr. Klecan also diagnosed chronic post-traumatic stress disorder secondary to childhood developmental experiences. He indicated that appellant's current stressors refer only to ordinary financial worries and ordinary emotional stressors that most litigants feel as they pursue a case or litigation. Dr. Klecan noted that appellant had made a personal choice not to return to work as of December 1993. He reported no current limitation of mental or emotional health and noted that appellant could return to work if sufficiently motivated to do so. Dr. Klecan also indicated that while the factors that arose within the performance of duty did temporarily aggravate symptoms of preexisting general anxiety disorder which was related to appellant's childhood experiences, this condition had resolved by April 1994 when she discontinued counseling in relation to those matters.

With her request for reconsideration, appellant submitted a report by Dr. Jeffrey M. Robbins, a psychiatrist. In his report dated December 4, 1996, Dr. Robbins indicated that appellant had been under his care since March 15, 1994. He noted that while he agreed with Dr. Klecan that appellant had sustained aggravation of preexisting generalized anxiety disorder, he diagnosed a chronic post-traumatic stress disorder stemming from her childhood experiences of abuse. He reported that this condition was aggravated by the abusive experience described in the statement of accepted facts. Dr. Robbins also found depressive symptoms of suicidal ideation which are often associated with post-traumatic stress disorder and cannot be associated with generalized anxiety disorder. He indicated that appellant had made a good partial recovery with previous psychotherapy but that she continued to be strongly affected by any reminders of

the traumatic situation at the employing establishment. Dr. Robbins concluded that appellant had not reached her baseline functioning and that while she was able to work part time, she would never be able to work in any the capacity at the employing establishment.

By letter dated January 25, 1997, the Office requested that Dr. Robbins provide additional information concerning whether appellant's claimed condition was causally related to her accepted employment injury. The Office requested that Dr. Robbins explain when he had determined that appellant had sustained aggravation of her preexisting post-traumatic stress disorder. The Office also requested that Dr. Robbins answer the questions that it posed to Dr. Klecan at the time of his second opinion examination and report. In an undated report, Dr. Robbins indicated that he believed he had adequately answered the questions posed in his previous report. He noted that the unwanted behavior of appellant's coworker had produced permanent effects, aggravating her preexisting post-traumatic stress condition as noted in his December 4, 1996 report. He concluded that while appellant was doing much better in most areas, he did not expect her to change with respect to the simple necessity of going to the employing establishment which would bring return symptoms including tearfulness, agitation and suicidal thinking. Dr. Robbins clarified that the diagnosis of disability due to post-traumatic stress disorder had been first made by Dr. Helms. He concluded that this condition did not just become a disabling factor but had always been the main disabling factor.

The Board finds that the weight of medical opinion is represented by the report of Dr. Klecan. While Dr. Robbins has expressed a different conclusion regarding appellant's continuing disability and has related her claimed condition to her federal employment, he did not provide adequate reasoning, objective evidence or sufficient information to establish that his medical conclusions are based on a full and accurate social and medical history of appellant. Therefore his opinion is of limited probative value as it does not contain an accurate and complete history² and since he had not provided an adequate rationale for his medical conclusions. Consequently, the well reasoned and thorough report by Dr. Klecan constitutes the weight of the medical evidence and appellant has not established that she was temporarily totally disabled after April 30, 1994 due to her accepted employment injury.

² *James A. Wyrich*, 31 ECAB 1805 (1980).

The decision of the Office of Workers' Compensation Programs dated March 5, 1997 is hereby affirmed.

Dated, Washington, D.C.
September 21, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member