

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SANDRA WASSON and U.S. POSTAL SERVICE,  
POST OFFICE, Bellmawr, NJ

*Docket No. 01-2048; Submitted on the Record;  
Issued April 24, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,  
MICHAEL E. GROOM

The issue is whether appellant established an emotional condition causally related to her employment.

On April 19, 2000 appellant, then a 47-year-old supervisor, filed a notice of occupational disease alleging that she suffered from anxiety, depression and panic disorder due to employment factors. Appellant stated: "as a supervisor, I was required to assure the machinery for the distribution of mail was operating properly [and] efficiently. During the course of employment, several subordinates neglected to perform duties [and] threatened me with physical harm."

In support of her claim, appellant submitted a prescription form signed by Dr. Ann Walker, a family practitioner, which noted that appellant had been reevaluated on April 18, 2000 and was "still significantly impaired due to depression and anxiety disorder."

By letter dated June 15, 2000, the Office of Workers' Compensation Programs advised appellant of the factual and medical evidence required to establish her claim.

In a November 3, 2000 decision, the Office denied appellant's claim for compensation on the grounds that she failed to allege a compensable factor of employment and, therefore, failed to establish fact of injury.

In a January 11, 2001 letter, appellant requested reconsideration and submitted a supporting statement. She alleged that on December 26, 1999 she was the scheduling supervisor for the automation area and had scheduled an employee Walter Bullock to report to operate "OCR #14" after the break but he never reported to the machine. Appellant paged Mr. Bullock to come to the desk several times. When he finally appeared in answer to the page he told her that he was refusing the assignment. She related that the employee walked away and muttered something she could not hear and then said, "ya know, you better watch yourself you could get hurt." When appellant asked the employee whether or not he was threatening her, she stated that he denied any threat.

Appellant next related that, on January 3, 2000, while she was talking to a shop steward, the same employee, Mr. Bullock came around the corner pushing a “large pallet” and the shop steward had to pull appellant out of the way of being hit by it. She noted that the pallet hit the corner of her shoe. Appellant related that the employee just smirked at her and kept walking by without stopping to see if she was okay. She also stated that, while she reported the incident to her superior, he only chuckled and said: “That boy will never learn.”

Appellant submitted additional medical evidence with her reconsideration request including copies of medical records pertaining to her treatment for migraine headaches, hemorrhoids, swelling in her right foot and leg, dysfunctional uterine bleeding and nasal problems.

In a clinical note dated April 6, 2000, Dr. Walker noted that appellant was in her office because her dog nearly died “on the anniversary of the death of her other dog one year ago.” Dr. Walker listed diagnoses of generalized anxiety disorder and panic attacks, for which she prescribed medication.

In a clinical note dated May 31, 2000, Dr. Walker diagnosed that appellant suffered from paralyzing anxiety and depression.

In a report dated September 9, 2000, Dr. John R. Rushtown, a Board-certified neuropsychiatrist, relates appellant’s statement of her employment history as follows:

“I am here because of my nerves, I suffer with anxieties, panic, depression and my job problems did this to me, it stressed me. I do n[o]t sleep well, I can[no]t get to sleep and I can[no]t stay asleep. I have dreams about my job. I can[no]t relax at times, I can[no]t eat then I will start compulsively eating, it is a cycle, I am out of control. I get moody, I cry, I hide in bed, really on the sofa, I can[no]t get in my bed since my nerves went bad. I pull the covers over my head and I do little. I do n[o]t cook anymore. I have migraines, they come and go and at times they are severe. They worsened in November 1999 and I would miss work because of my migraines. I was pretty uptight, could n[o]t relax or quiet myself. I have worked for the [employing establishment] for sixteen years and I have been a supervisor for ten years. I first was out of work in 1993 because of headaches, it would be one day at a time. Gradually the migraines were a more frequent, real problem, as my nervous state got worse the migraines became more severe. I was working in January 2000, a happening at work, a close call of physical injury, employees threatening me, things built up and I was intimidated by my employees. I could n[o]t cope with it, I dreaded going to work, I felt a tension in the pit of my stomach, I could n[o]t go on, I was exhausted and felt overwhelmed. I felt my supervisors were not helping me and did not support me.”

In an October 31, 2000 report, Dr. Rushtown noted that appellant had a history of abuse by an ex-husband. He noted that appellant complained that her family did not understand her illness and that she was financially stressed out. Dr. Rushtown related that appellant could not cope with anything related to the employing establishment and that she suffered from nightmares. He diagnosed “[p]ost-[t]raumatic [s]tress [d]isorder manifested by overwhelming

anxieties, depression and emotional exhaustion, a direct result of the traumatic experiences suffered at her place of employment.” He recommended psychotherapy and prescribed medication.

By letter dated January 30, 2001, the Office requested that the employing establishment respond to the factual statements submitted by appellant, but reply was not received.

In a decision dated April 13, 2001, the Office modified its prior decision to reflect that appellant had alleged two compensable factors of employment, a December 26, 1999 verbal altercation with Mr. Bullock and a January 3, 2000 physical confrontation with the same employee. The Office, however, denied appellant’s claim for compensation because the medical evidence was insufficient to establish a causal relationship between appellant’s emotional condition and the two accepted employment factors.

The Board finds that appellant failed to establish that she sustained an emotional condition causally related to her employment.

In order to establish that an employee sustained an emotional condition in the performance of duty, the employee must submit the following: (1) medical evidence establishing that he or she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the emotional condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the emotional condition.<sup>1</sup> Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the employee’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.<sup>2</sup>

Workers’ compensation law is not applicable to each and every injury or illness that is somehow related to an employee’s employment. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the coverage of workers’ compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within coverage of the Federal Employees’ Compensation Act.<sup>3</sup> In this case, the Office determined that appellant established two compensable factors of employment with respect to the verbal threat on December 26, 1999 and the physical confrontation January 3, 2000 with an employee that appellant was supervising. Appellant’s description of the work incidents is

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<sup>1</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>2</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

uncontradicted<sup>4</sup> and the record indicates that she was exposed to harassment by the employee in question as part of her regularly assigned duties.

The only issue to be resolved is whether appellant submitted sufficient medical evidence to establish a causal relationship between her employment factors and her emotional condition. The Board does not find the medical evidence to be sufficient to carry appellant's burden of proof. As noted by the Office, although Dr. Rushtown's September 9, 2000 report contains a history of injury describing appellant as being threatened by "employees" at work, that history was related by appellant and is not consistent with the one incident of a verbal threat by Mr. Bullock on December 26, 1999. Moreover, Dr. Rushtown did not discuss with any detail the two work factors accepted by the Office or otherwise indicate that he knew with specificity what occurred on December 26, 1999 or January 3, 2000. Without an accurate picture of appellant's history of injury, Dr. Rushtown's opinion that appellant suffers from post-traumatic stress disorder due to "traumatic experiences suffered at her place of employment" is not deemed to be a reasoned opinion.<sup>5</sup> Because Dr. Rushtown did not offer a reasoned opinion based on a proper factual background and there is no rationalized evidence to establish causal relationship,<sup>6</sup> the Board concludes that the Office properly denied appellant's claim for compensation.

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<sup>4</sup> See generally *Doyle Ricketts*, 48 ECAB 167 (1996) (an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence).

<sup>5</sup> See *Ruby I. Fish*, 46 ECAB 276 (1994) (the opinion of a physician must be based on a complete factual and medical history of claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by claimant); *Billie C. Rae*, 43 ECAB 192 (the Board found that the medical reports of record, which incorporated an inaccurate summary of appellant's work activities, were of diminished probative value).

<sup>6</sup> Dr. Rushtown's opinion is not rationalized for the additional reason that he failed to discuss the role of nonemployment factors in the development of appellant's emotional condition. This is particularly important since he noted that appellant was very upset after the death of a pet.

The decision of the Office of Workers' Compensation Programs dated April 13, 2001 is hereby affirmed.

Dated, Washington, DC  
April 24, 2002

Michael J. Walsh  
Chairman

Colleen Duffy Kiko  
Member

Michael E. Groom  
Alternate Member