

FACTUAL HISTORY

Appellant, a 36-year-old mail handler, was injured August 16, 2006 when a wire hamper fell from a forklift and struck her right side. She stopped work the day of her injury and returned to work in a limited-duty capacity on August 22, 2006. The Office accepted appellant's claim for contusions of the right shoulder, upper arm, elbow and forearm.

On May 11, 2007 appellant filed a claim for post-traumatic stress disorder (PTSD), which she attributed to her August 16, 2006 employment injury. She first became aware of her psychiatric condition on May 7, 2007. Appellant last worked on May 1, 2007.²

From an orthopedic standpoint, appellant was capable of performing limited-duty work, and the employing establishment advised that modified work remained available. From April 23 to August 27, 2007, Dr. Behzad Haghi, appellant's treating physician, found her capable of performing limited-duty work as it pertained to the use of her right upper extremity.³

From a psychological standpoint, appellant was considered totally disabled according to Dr. Barbara A. Ammon, Ph.D. In a May 30, 2007 report, Dr. Ammon diagnosed PTSD and indicated that appellant had been totally disabled since May 1, 2007. She first saw appellant on May 7, 2007, at which time appellant reported having been injured at work on August 16, 2006 when a 390-pound wire cage stacked on a truck fell onto her chin and then onto her chest, pinning her against a nearby parked mule. The impact reportedly knocked the wind out of appellant, who was stunned and unable to move and her right arm began turning black. Appellant also informed Dr. Ammon that the truck driver pulled the cage off of her, tearing her skin. Dr. Ammon noted that, since the accident, appellant had not been fully able to use her right arm and hand. Appellant had also experienced symptoms referable to her neck, shoulder, back and hip.

Dr. Ammon noted that, immediately following the August 16, 2006 accident, appellant experienced the onset of flashbacks and nightmares. Appellant reportedly awakened from the nightmares with palpitations and sweat. Dr. Ammon stated that appellant was hypervigilant and startled easily. Also, appellant's memory and concentration were impaired, she was irritable and she became tearful with little provocation. Dr. Ammon described appellant as well motivated to work and noted that, despite ongoing orthopedic and psychological symptoms, appellant returned to limited duty two or three weeks after her injury. But appellant felt quite fearful at work and she became physically tense and experienced palpitations when she was around or even heard the sound of cages. She reportedly had recurrent thoughts of how the cage came close to striking her head.

² On May 10, 2007 appellant filed another emotional condition claim (13-2171958) for alleged harassment that occurred following her return to light duty in August 2006. The Office adjudicated the two emotional condition claims separately and associated the May 11, 2007 filing with appellant's August 16, 2006 traumatic injury claim (13-2157179).

³ Dr. Haghi is Board-certified in family and preventive medicine, with a subspecialty in occupational medicine. He imposed right arm restrictions that included no repetitive reaching, no reaching above shoulder level, no lifting over five pounds and no heavy or repetitive pushing or pulling. Appellant was also required to wear a tennis elbow brace at work.

Dr. Ammon also noted that appellant's clinical picture was further complicated by the harassment she received from her supervisor following her return to limited-duty work. She reported that appellant's supervisor repeatedly attempted to force her to work outside of her physician's restrictions. The supervisor also closely monitored appellant's actions and indicated that other employees did not want to work with her because they considered her to be a safety hazard.

When appellant first sought psychological counseling with Dr. Ammon on May 7, 2007, she reported experiencing ongoing nightmares and flashbacks of the August 16, 2006 incident. Additional complaints included depression, irritability, tearfulness, feelings of helplessness and hopelessness, impaired memory and concentration, hypervigilance, startle response, headaches, palpitations, excessive sweating, and reduced self-confidence and self-esteem. Dr. Ammon explained that appellant's psychological condition was consistent with the diagnosis of post-traumatic stress disorder. She also stated that appellant's symptoms interfered with her ability to continue working. Dr. Ammon advised that appellant required psychological treatment, including weekly psychotherapy, possibly augmented by psychotropic medications. According to her, appellant's prognosis was guarded and the estimated duration of her disability was unknown.

In a June 6, 2007 letter to the employing establishment, Dr. Ammon advised that appellant was being treated for psychological symptoms that developed reactive to employment-related injury and stress. She stated that appellant was temporarily totally disabled for her usual employment until July 7, 2007.

Dr. Ammon wrote the employing establishment again on June 8, 2007. This letter was directed to the plant manager. Dr. Ammon reiterated that appellant was receiving treatment for psychological symptoms that developed reactive to an employment-related injury. She also noted that she was made aware that many supervisory personnel had contacted appellant by telephone while she was on medical leave. Dr. Ammon requested that the supervisory personnel be instructed to refrain from contacting appellant by telephone as this was not in her best interest from an emotional point of view and was hampering appellant's recovery.

In a July 12, 2007 follow-up report, Dr. Ammon sought to "clarify the cause of [appellant's] psychological disability." She again noted that appellant's psychological symptoms were consistent with the diagnosis of PTSD, which "developed reactive to the industrial injury of August 16, 2006." Dr. Ammon also noted that she had previously reported that appellant had been "subjected to supervisory maltreatment following the injury." But she explained that the predominant cause of appellant's psychological symptoms and resulting disability were her symptoms of post-traumatic stress disorder. Dr. Ammon further explained that had appellant not been emotionally vulnerable because of this condition, she would have been better able to cope with the supervisor's behavior. She noted that appellant had the same supervisor before and after the injury and prior to appellant's injury she had been able to interact with the supervisor without developing a disabling psychological condition.

On July 16, 2007 the Office informed appellant that her August 16, 2006 employment injury had been expanded to include PTSD. It advised appellant that the medical evidence of record was insufficient to establish that she incurred any wage loss due to this condition.

In a July 24, 2007 attending physician's report (Form CA-20), Dr. Ammon diagnosed employment-related PTSD. She also noted that appellant had been disabled since May 1, 2007 and that she remained totally disabled.

On July 26, 2007 appellant filed a claim for compensation (Form CA-7) for the period May 1 to July 20, 2007.

By decision dated August 13, 2007, the Office denied appellant's claim for wage-loss compensation beginning May 1, 2007.

LEGAL PRECEDENT

A claimant has the burden of establishing the essential elements of her claim, including that the medical condition for which compensation is claimed is causally related to the claimed employment injury.⁴ For wage-loss benefits, the claimant must submit medical evidence showing that the condition claimed is disabling.⁵ The medical evidence submitted must be reliable, probative and substantial.⁶

ANALYSIS

Appellant claimed that she was totally disabled from May 1 to July 20, 2007 due to her employment-related post-traumatic stress disorder.⁷ However, the medical evidence of record does not support such a finding. Dr. Ammon's initial report dated May 30, 2007 attributed appellant's current psychological condition, in part, to supervisory harassment unrelated to the August 16, 2006 traumatic injury. She noted that appellant's clinical picture was further complicated by harassment from her supervisor following her return to limited-duty work. The supervisor was alleged to have repeatedly attempted to force appellant to work beyond her physical restrictions. Appellant also complained of being closely monitored by her supervisor. Additionally, she learned that other employees did not want to work with her because they considered her to be a safety hazard. According to Dr. Ammon, these factors also impacted appellant's psychological state.

The psychological impact of appellant's interactions with her supervisors was also evident from the July 6 and 8, 2007 letters Dr. Ammon wrote to the employing establishment. In the first letter, Dr. Ammon noted that appellant was being treated for psychological symptoms that developed reactive to an employment-related injury and "stress." In the second letter, she admonished the employing establishment for contacting appellant at home during her medical leave of absence. Dr. Ammon requested that supervisory personnel refrain from contacting

⁴ 20 C.F.R. § 10.115(e); *see Tammy L. Medley*, 55 ECAB 182, 184 (2003).

⁵ 20 C.F.R. § 10.115(f).

⁶ 20 C.F.R. § 10.115.

⁷ Appellant does not allege, nor does the record establish, that she was totally disabled due to the injuries she sustained to her right upper extremity on August 16, 2006.

appellant by telephone as this was not in appellant's best interest from an emotional point of view and was hampering her recovery.

Dr. Ammon's July 12, 2007 letter explained that had appellant not been emotionally vulnerable because of her PTSD, she would have been better able to cope with her supervisor's behavior. According to her, appellant's psychological condition began to deteriorate soon after the August 16, 2006 incident at work. Dr. Ammon stated that "[i]mmediately following the accident," appellant "experienced the onset of flashbacks and nightmares of the accident." But even with the almost instantaneous onset of psychological symptoms, appellant was able to continue working for some nine months following the August 16, 2006 traumatic injury. Dr. Ammon has not explained how and why appellant's psychological condition deteriorated over the course of nine months to the point of her being totally disabled for the period at issue.

It is also unclear from Dr. Ammon's July 12, 2007 report how she distinguished the so-called "predominate" cause of appellant's current "psychological symptoms and resulting disability." There is no indication from the doctor's report how she was able to distinguish appellant's disability among the effects of her PTSD symptoms and the effects of the reported supervisory harassment. It is not enough for Dr. Ammon to simply say that appellant is totally disabled due to her employment-related PTSD.⁸

The current record does not include any probative medical evidence to support appellant's claim that she was totally disabled from May 1 to July 20, 2007 due to her August 16, 2006 employment injury. Accordingly, the Office properly denied appellant's claim for wage-loss compensation.

CONCLUSION

Appellant did not established entitlement to wage-loss compensation for the period May 1 to July 20, 2007.

⁸ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

ORDER

IT IS HEREBY ORDERED THAT the August 13, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 22, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board