

FACTUAL HISTORY

On May 17, 2007 appellant, then a 49-year-old letter carrier, filed a traumatic injury claim for a dog bite on his right ankle on May 16, 2007. The Office accepted his claim for a right ankle dog bite with complications and acute cellulitis of the right ankle. On October 29, 2007 it expanded the claim to include post-traumatic stress disorder.

In a November 29, 2007 report, Dr. Michael Gotlib, a Board-certified psychiatrist, reviewed the medical history and provided the results of a mental status examination. He found that appellant had no psychiatric disability. Appellant could return to his regular duty as a letter carrier without restrictions.

On January 3, 2008 Ron Rice, Ph.D, an attending licensed clinical psychologist, opined that appellant still had symptoms of post-traumatic stress disorder and could work in an indoor setting only.

The Office found a conflict in medical opinion between Dr. Gotlib and Dr. Rice as to whether appellant had any continuing disability causally related to his accepted post-traumatic stress disorder. It referred him to Dr. Calmeze H. Dudley, a Board-certified psychiatrist and impartial medical specialist, for an evaluation to resolve the conflict.

In a January 23, 2009 report, Dr. Dudley reviewed the medical history and provided the results of a mental status examination. He found no objective evidence of an active psychiatric illness. There was some evidence of symptom magnification or motive for secondary gain. Dr. Dudley opined that appellant could return to his letter carrier position and needed no further psychiatric treatment.

On February 18, 2009 the Office advised appellant of its proposed termination of his compensation and medical benefits. By decision dated April 1, 2009, it finalized its termination of his compensation effective March 30, 2009 on the grounds that Dr. Dudley's report established that he had no continuing disability or medical condition causally related to his accepted conditions.

Appellant requested a telephonic hearing that was held on July 24, 2009.

In an August 12, 2009 report, Dr. Rice asserted that Dr. Dudley's opinion should not be accorded special weight because he spent only one hour with appellant and did not adequately explain his finding that appellant did not have post-traumatic stress disorder. He maintained that appellant continued to experience symptoms of post-traumatic stress disorder.

By decision dated September 24, 2009, the Office hearing representative affirmed the April 1, 2009 termination decision. He found that the evidence did not establish that appellant

had any continuing disability or medical condition causally related to his May 16, 2007 dog bite.²

LEGAL PRECEDENT

Where the Office meets its burden of proof in justifying termination of compensation benefits, the burden is on the claimant to establish that any subsequent disability is causally related to the employment injury.³ In order to prevail, the employee must establish by the weight of the reliable, probative and substantial evidence that he or she had an employment-related disability which continued after termination of compensation benefits.⁴

ANALYSIS

The Board finds that appellant failed to establish that he had any continuing disability or medical condition after March 30, 2009 causally related to his May 16, 2007 dog bite.

On August 12, 2009 Dr. Rice asserted that Dr. Dudley's opinion should not be accorded special weight because he spent insufficient time evaluating appellant and did not adequately explain his finding that appellant did not have post-traumatic stress disorder. He maintained that appellant continued to experience symptoms of post-traumatic stress disorder. A subsequent report submitted by a claimant's attending physician is insufficient to outweigh the report of the impartial medical specialist, where the attending physician's earlier reports had created the medical conflict that was referred to the impartial medical specialist to resolve.⁵ Dr. Rice's report of August 12, 2009, is not sufficiently detailed nor did it provide new clinical findings to establish that appellant was in fact disabled from his letter carrier duties after March 30, 2009. As a result, the supplemental report from Dr. Rice does not overcome the weight accorded to Dr. Dudley's opinion. The Office properly affirmed the April 9, 2009 termination decision.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he had any work-related disability or medical condition after March 30, 2009.

² Subsequent to the September 24, 2009 Office decision, additional evidence was associated with the file. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. See 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

³ *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Anna M. Blaine*, 26 ECAB 351, 353-54 (1975); see *Fred Foster*, 1 ECAB 127, 132-33 (1948).

⁴ *I.J.*, *supra* note 3; *Gary R. Sieber*, 46 ECAB 215, 222 (1994); see *Wentworth M. Murray*, 7 ECAB 570, 572 (1955).

⁵ See *Roger G. Payne*, 55 ECAB 535 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 24, 2009 is affirmed.

Issued: August 6, 2010
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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