

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SALLY MARCHINI and DEPARTMENT OF THE AIR FORCE,
KELLY AIR FORCE BASE, San Antonio, TX

*Docket No. 97-1734; Submitted on the Record;
Issued August 3, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability beginning July 8, 1994 causally related to her accepted July 24, 1989 employment injury.

The Office of Workers' Compensation Programs accepted that appellant sustained an acute anxiety reaction as a result of a fire and explosion of an aircraft that appellant was helping to refuel on July 24, 1989. She received continuation of pay from July 28 to September 10, 1989, followed by compensation for temporary total disability until October 10, 1989, when she returned to her regular work as an aircraft mechanic. Appellant again stopped work on October 19, 1989; the Office accepted that she sustained a recurrence of disability and paid her compensation for total disability until her return to her regular work on December 27, 1989.

By decision dated January 22, 1990, the employing establishment removed appellant effective February 2, 1990 "for careless workmanship, negligence and safety violations that contributed to the fatality of one employee, injury to several employees and the loss of a aircraft, B52G-058-0190 and associated equipment valued at 15.8 million dollars."¹ Appellant returned to duty on June 2, 1990 at the lower-graded position of aircraft mechanic helper. On July 2, 1990 appellant was detailed to a position as an engineering assistant and remained in this position until October 4, 1992, when she was reassigned to a position as an electroplater helper as a result of her medical restrictions. On May 25, 1994 the employing establishment issued appellant an information memorandum stating that her position of electroplater helper was being abolished, and that she would be separated in a reduction-in-force on September 30, 1994 unless other employment was located by that date.

¹ In a January 30, 1991 decision, an arbitrator reduced appellant's punishment for this incident to a 60-day suspension.

Appellant stopped work on July 8, 1994. On September 14, 1994 she filed a claim for a recurrence of disability beginning July 8, 1994 causally related to her July 24, 1989 employment injury. As to the circumstances of the recurrence of disability, appellant stated:

“The stress of losing two appeal hearings for back pay and grade. The daily exposure to aircraft on the base. A [reduction-in-force] notice. Seeing the Travis AFB B-52 crash on [television] all of this brought back same thoughts and feelings I had in 1989 after the accident. I was finally hospitalized on [July] 8[,] [19]94.”

On September 29, 1994 appellant accepted the employing establishment's offer of a position as a management assistant, but she did not return to work. By decision dated November 7, 1994, the Office found that the position of aircraft mechanic, which appellant held beginning December 27, 1989, fairly and reasonably represented her wage-earning capacity and that no loss of wages occurred, since her actual wages met or exceeded the wages of the job she held when injured.

By another decision dated November 7, 1994, the Office found that the evidence failed to establish that the claimed recurrence of disability beginning July 8, 1994 was causally related to appellant's July 24, 1989 employment injury. The Office found that appellant's condition beginning July 8, 1994 was “not the result of the July 24, 1989 work injury, but rather a new incident possibly triggering the acute anxiety reaction. The claimant may want to file a new claim.” Appellant requested reconsideration and submitted additional evidence. By decision dated January 18, 1996, the Office denied modification of its prior decision. By decision dated January 22, 1997, the Office denied modification of its prior decisions.

The Board finds that appellant has established that she sustained a recurrence of disability beginning July 8, 1994 causally related to her accepted July 24, 1989 employment injury.

Although the Office accepted acute anxiety reaction as the condition resulting from appellant's July 24, 1989 employment injury, the record contains extensive medical records from appellant's psychiatrist noting symptoms of anxiety, depression and insomnia as findings on examination. However, the diagnosis made was post-traumatic stress disorder, No. 309.89 under the diagnostic and statistical manual, Third edition revised. In a report dated August 19, 1989, Dr. George K. Schlagenhauf, appellant's treating psychiatrist, stated that appellant was “present during [the] plane explosion which has resulted in severe anxiety and/or depressive reaction.” He diagnosed post-traumatic stress disorder and explained why he believed appellant's post-traumatic stress disorder was related to her July 24, 1989 injury: “Explosion and death of friends [and] colleagues has directly effected -- contributed to [elevated] anxious state.” Dr. Douglas Winslow, Ph.D., a clinical psychologist, performed psychological testing for Dr. Schlagenhauf on September 29, 1989 and concluded that “post-traumatic stress disorder appears to be a valid diagnosis for this patient.” Appellant underwent extensive treatment for her emotional condition, including hospitalization in October 1989. Dr. Schlagenhauf's reports consistently diagnosed post-traumatic disorder. This diagnosis was also made by Dr. Linda L. Hawkins, the

Board-certified psychiatrist who began treating appellant on July 5, 1994.² In an October 25, 1995 report of a fitness-for-duty evaluation, Dr. Michael R. Jarrard of the employing establishment stated, "The medical information supplied by her primary physicians contains sufficient evidence to support the diagnosis they made and further evaluation by myself or other agency medical providers is unnecessary." The Board finds that the evidence establishes that appellant sustained a post-traumatic stress disorder as a result of her July 24, 1989 employment injury.

The Board further finds that as to whether appellant has established that she sustained a recurrence of disability beginning July 8, 1994 causally related to her accepted July 24, 1989 employment injury the case is not in posture for a decision.

Appellant was hospitalized from July 8 to 27, 1994 under the care of Dr. Hawkins. In a discharge summary, Dr. Hawkins noted that, since the July 24, 1989 accident, appellant "had experienced post-traumatic stress disorder symptoms with intermittent exacerbations." Dr. Hawkins stated, "The recent decompensation in functioning was subsequent to being informed of a scheduled permanent layoff at the air force base where she was employed. Appellant described becoming increasingly depressed and anxious, feeling as if she was back where she started five years ago." Dr. Hawkins' primary diagnosis was "major depressive disorder, recurrent, severe" and the secondary diagnoses were post-traumatic stress disorder and alcohol dependence. In a report dated August 17, 1994, Dr. Hawkins noted that appellant had tried to approach the impending elimination of her position at the employing establishment rationally, but "after one week she found that anger, anxiety and depression overwhelmed her." Dr. Hawkins concluded: "I feel that this patient is unable to work due to depression and recurrence of post-traumatic stress disorder. I believe both of these are related to the original trauma of the 1989 work-related accident and have been reexacerbated by further emotional trauma on the job at [the employing establishment]."

In a report dated November 2, 1995, Dr. Hawkins provided rationale for her opinion that appellant's disability beginning July 8, 1994 was causally related to her July 24, 1989 employment injury:

"This is a second letter in support of my diagnosis, relapse of post-traumatic stress disorder in [appellant] during July and August 1994. At that time [appellant] had to leave her job at [the employing establishment] because she experienced extreme anxiety and depression. She had rage, sleep disturbance and autonomic hyperarousal. These symptoms resulted in [appellant] being unable to return to her job at [the employing establishment]. She could not even enter the [employing establishment] grounds without exacerbation of her symptoms. This was a reexacerbation of post-traumatic stress disorder resulting from her involvement with the 1989 B-52 fire at [the employing establishment]. It was surely disproportionate to the 1994 precipitant. Please note that initially in 1994 [appellant] tried to deal with news of pending job lay off in appropriate ways.

² Dr. Hawkins examined appellant once in 1992.

However, she had involuntary and overwhelming symptoms of post-traumatic stress disorder requiring hospital admission....

“Claims examiner ... concluded that all of this was a *de novo* illness. I am strongly of the opinion that this is wrong. [Appellant] had recurrence of symptoms of post-traumatic stress disorder: anxiety; autonomic hyperarousal; rage displaced from and disproportionate to the immediate precipitating events. It was related to the site and sequelae of the fiery tragic trauma five years earlier. Through most of that five years [appellant] struggled with intermittent depression, affective lability and chemical abuse. She was in psychiatric treatment much of that time. July/August 1994 was an exacerbation or decompensation of chronic P.T.S.D. [post-traumatic stress disorder] not a new illness. P.T.S.D. often is a long-term, chronic, relapsing condition. There may be periods of relative remission, but seemingly innocuous events can trigger relapse in which patients reexperience symptoms. This can be true for many years after the original trauma. I believe that the claims examiner’s conclusion was wrong and not based on evidence of the chronicity and relapsing nature of the disorder.”

Where appellant claims a recurrence of disability due to an accepted employment-related injury, she has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which she claims compensation is causally related to the accepted injury.³ This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.⁴ In the present case, appellant has submitted reports from Dr. Hawkins, a Board-certified psychiatrist, who concluded that appellant’s disability and condition beginning July 8, 1994 were related to her July 24, 1989 employment injury. The Board finds that the medical reports from Dr. Hawkins constitute sufficient evidence to require further development of the claim. On remand, the Office should prepare a statement of accepted facts and refer appellant to an appropriate specialist for an opinion on whether appellant sustained a recurrence of disability commencing July 8, 1994 causally related to her July 24, 1989 injury. After such further development of the case as the Office deems necessary, a *de novo* decision shall be issued.

³ *John E. Blount*, 30 ECAB 1374 (1974).

⁴ *Frances B. Evans*, 31 ECAB 60 (1980).

The January 22, 1997 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.
August 3, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Michael E. Groom
Alternate Member