

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of IDELL L. GATTERSON and U.S. POSTAL SERVICE,  
POST OFFICE, Houston, TX

*Docket No. 99-1303; Submitted on the Record;  
Issued July 18, 2000*

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DECISION and ORDER

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

The issue is whether appellant sustained an injury in the performance of duty, as alleged.

The Board has duly reviewed the case record and finds that appellant failed to establish that she sustained an injury in the performance of duty, as alleged.

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>1</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>2</sup>

On January 13, 1999 appellant, then a 32-year-old clerk, filed a claim for a traumatic injury, Form CA-1, alleging that on January 13, 1999 she experienced chest pain, anxiety and pain in her left arm when she was "unable to work in box section without taking a break and being threatened to answer the bell for customers anyway by supervisor." Appellant stopped working on January 13, 1999. Appellant's supervisor stated that appellant came into her office complaining about chest pains and breathing rapidly and stated that she needed "to go home sick."

In an injury encounter form dated January 13, 1999, Dr. John C. Davis, a general practitioner, stated that appellant reported that on January 13, 1999 she started a new position at her job, that she needed a break but had to answer a bell and began feeling weak and having chest pain which radiated down her left arm. He diagnosed an acute anxiety attack, acute depression and "agrophobia."

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<sup>1</sup> *Robert J. Krstyen*, 44 ECAB 227, 229 (1992); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

<sup>2</sup> *Id.*

In a statement from the employing establishment dated January 13, 1999, an Acting Human Resources Associate, Dorothy Ledezma, stated that on January 13, 1999 appellant came to her to request a CA-1 form, that appellant told her that her supervisor would not allow her to take a break when she needed one, that appellant got an anxiety attack because she could not take a break and the way she was treated and she had pain in her right arm.

In a duty status report, Form CA-17, dated January 13, 1999, Dr. Davis stated that appellant had chest pain and pain in her left arm and reiterated his diagnoses of acute anxiety attack, clinical depression and "agrophobia." He stated that appellant was exposed to unusual stress, "i.e., verbal, environmental, social."

In a duty status report dated January 15, 1999, Dr. Davis diagnosed costalchondritis. He also stated that appellant had a psychiatric problem which was not work related and she should be off work until she was evaluated.

An activity status report dated January 15, 1999, stated that appellant required anaprox for work-related costalchondritis and prozac for her psychiatric condition, which was not work related.

In a report dated January 21, 1999, Dr. Patricia P. Corke, a Board-certified psychiatrist and neurologist, stated that she had previously treated appellant for depression and post-traumatic stress disorder. She stated that appellant's being questioned a lot at work could result in a recurrence of her post-traumatic stress disorder and requested that the questioning stop. Dr. Corke stated that appellant could return to work without restrictions.

By letter dated January 29, 1999, the Office of Workers' Compensation Programs requested additional information from appellant.

In an undated narrative report received by the Office on January 26, 1999, Dr. James R. Staten, an occupational medicine specialist, stated that appellant told him that on January 13, 1999 she started a new position on her job where she had to answer a bell any time it rang and that she had only one break and did not get the break. He stated appellant felt weak, had chest pain and felt shortness of breath.

In a statement dated February 4, 1999, appellant stated that the January 13, 1999 incident occurred while she was working and holding several magazines on her left arm and made an awkward turn. Appellant stated that she had swelling in the chest area on the left side. She also stated that on September 12, 1995 she filed a claim for post-traumatic stress disorder.

In a duty status report dated February 2, 1999, Dr. Levy Gatterson, a Board-certified family practitioner, diagnosed herniated lumbar disc.

By decision dated March 4, 1999, the Office denied appellant's claim, stating that the medical evidence was insufficient to establish that her medical condition was caused by the event.

In the present case, there are inconsistencies as to the nature of the injury appellant sustained on January 13, 1999 in that appellant stated in her claim, Form CA-1, that her anxiety attack, chest pain and left arm pain resulted from her being unable to take a break, which is

corroborated by much of the contemporaneous evidence of record, but in her statement dated February 4, 1999, appellant stated that her chest pain occurred when she was holding magazines and made an awkward turn. In the January 13, 1999 injury encounter form and the duty status reports dated January 13 and 15, 1999, Dr. Davis diagnosed anxiety attack, depression and “agrophobia,” as well as costalchondritis and stated that the costalchondritis but not appellant’s psychiatric condition was work related. He, however, did not address how appellant’s costalchondritis was work related, that is, how factors at appellant’s workplace caused or contributed to the condition. Further, although in the January 13, 1999 duty status report, Dr. Davis stated that appellant was exposed to unusual verbal, environmental and social stress, he did not provide an explanation of the kind of stress alleged by appellant.

In her January 21, 1999 report, Dr. Corke stated that she had previously treated appellant for depression and post-traumatic stress disorder but did not provide a current diagnosis nor describe how appellant’s current medical condition resulted from her employment. In his undated narrative report, Dr. Staten did not address causation. Dr. Levy’s February 2, 1999 duty status report, in which he diagnosed a herniated lumbar disc is inconsistent with the other contemporaneous medical evidence. Because of inconsistencies in the evidence as to the nature of the injury appellant sustained on January 13, 1999 and the absence of medical evidence addressing how a factor of employment caused appellant’s medical condition, appellant has not established that she sustained an injury in the performance of duty, as alleged.

The decision of the Office of Workers’ Compensation Programs dated March 4, 1999 is hereby affirmed.

Dated, Washington, D.C.  
July 18, 2000

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member