

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MELISSA D. CANTRELL and U.S. POSTAL SERVICE,
MAIN POST OFFICE, Columbia, TN

*Docket No. 00-940; Submitted on the Record;
Issued August 8, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a recurrence of disability on July 6, 1999 causally related to her January 26, 1999 employment injuries, a left arm contusion and an anxiety disorder.

The Board has duly reviewed the case record and finds that appellant has failed to establish that she sustained a recurrence of disability on July 6, 1999 causally related to her January 26, 1999 employment injury.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.¹ This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.² Where no such rationale is present, medical evidence is of diminished probative value.³

On January 29, 1999 appellant, then a 45-year-old modified distribution window clerk, filed a traumatic injury claim alleging that on January 26, 1999 coworker Frank Stewart struck her arm with a tray of mail. She stopped work on January 30, 1999 and returned to work on July 6, 1999. The Office of Workers' Compensation Programs accepted appellant's claim for a left arm contusion.

¹ See *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988).

² See *Mary S. Brock*, 40 ECAB 461, 471 (1989); *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

³ See *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

On February 3, 1999 appellant filed an occupational injury claim alleging that she sustained an emotional condition when Mr. Stewart struck her arm on January 26, 1999.

In a report dated April 27, 1999, Dr. Daniel L. Friedman, a psychiatrist, diagnosed an anxiety disorder and major depression, single episode, moderate, as a result of the incident with Mr. Stewart on January 26, 1999.

In a form report dated May 21, 1999, Dr. Raju V. Indukuri, a psychiatrist, indicated that appellant could return to work on June 30, 1999.

By decision dated May 19, 1999, the Office accepted appellant's claim for an anxiety reaction resulting from the January 26, 1999 incident with Mr. Stewart.

In letters dated July 6, 11 and 28, 1999, appellant alleged that on July 6, 1999 the employing establishment put her in a corner of the building with her back to a double door which made her uneasy. She alleged that this location change constituted retaliation for her complaints against the employing establishment. Appellant also alleged that her new workstation was in an area of high traffic and noise and that she had difficulty communicating with others as a result of the noise because of her hearing impairment.

By decision dated August 10, 1999, the Office denied appellant's claim for a recurrence of disability on and after July 6, 1999 on the grounds that the evidence did not establish that her claimed disability was causally related to her January 26, 1999 employment injury. The Office noted that she had alleged that her emotional condition on July 6, 1999 was caused by a new employment factor, a change in her workstation location on that date, and therefore she should file a new claim.

By letter dated August 18, 1999, appellant requested reconsideration. She attributed her recurrence of disability on July 6, 1999 to having her new workstation placed in a noisy area and having her telephone and hearing device removed.

By decision dated August 25, 1999, the Office denied appellant's request for reconsideration and stated that she needed to file a new claim.

By letter dated September 1, 1999, appellant submitted a request for reconsideration. She alleged that her disability on July 6, 1999 was due to acts of retaliation by the employing establishment including the failure to discipline Mr. Stewart, the removal of a hearing device used by appellant and the placement of her workstation in a noisy area.

By decision dated October 4, 1999, the Office denied modification of its August 25, 1999 decision on the grounds that the evidence of record failed to establish that appellant had any disability on or after July 6, 1999 causally related to her January 26, 1999 employment injury.

By letter dated October 11, 1999, appellant requested reconsideration and submitted additional evidence. She also stated that her claimed injury on July 6, 1999 was caused primarily by her reaction to seeing Mr. Stewart at the employing establishment on that date when she returned to work.

By decision dated December 16, 1999, the Office denied modification of its October 4, 1999 decision on the grounds that the evidence of record failed to establish that her claimed recurrence of disability on July 6, 1999 was causally related to her January 26, 1999 employment injury.⁴

In letters and reports dated July 9 and 16, August 6 and 20, and September 24, 1999, Dr. Indukuri stated that appellant should be off work commencing on July 6, 1999 due to her emotional condition. He also indicated that her new noisy work location was not suitable for her hearing problems.

In a letter dated September 6, 1999, Dr. Indukuri stated that appellant was under his care for major depression and post-traumatic stress disorder related to stress at work. He stated that on July 6, 1999 appellant returned to work and had severe flashbacks and a panic attack when she saw Mr. Stewart.

In a report dated October 24, 1999, Dr. Indukuri stated that appellant had been under his treatment for major depression and post-traumatic stress disorder related to her job. He stated that appellant had returned to work on July 6, 1999 and had decompensated due to severe stress. Dr. Indukuri stated:

“[Appellant] had severely depressed moods, hopelessness, recurrent guilt feeling and insomnia, and could not concentrate. In addition to the above symptoms, she reported to have experienced recurrent flashbacks of trauma; recurrent sudden anxiety attacks consistent with panic symptoms. These have been new symptoms she started experiencing that required medical leave. These symptoms should be considered as basically as decompensation from her illness.”

In an undated form report received by the Office on September 28, 1999, Dr. Indukuri diagnosed major depression caused by “threats and intimidation by [a] coworker” and indicated that appellant was totally disabled.

As appellant alleged that her disability commencing on July 6, 1999 was due to new employment factors, the Office properly denied her claim for a recurrence of disability on July 6, 1999 causally related to her January 26, 1999 employment injury.

The Office, however, erred in its treatment of appellant’s contention that she sustained an injury July 6, 1999 caused by her change in her workstation, acts of retaliation by the employing establishment and her reaction to seeing Mr. Stewart on July 6, 1999. In its August 10, 1999 decision, the Office noted that appellant alleged that new factors of employment caused a worsening of her emotional condition. The Office stated that she needed to file a new claim.

It is well established, however, that a claim need not be filed on any particular form. An informal claim in writing is sufficient, as long as it contains words which reasonably may be

⁴ The record contains additional evidence which was not before the Office at the time it issued its December 16, 1999 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

construed or accepted as a claim.⁵ Appellant alleged that she sustained a worsening of her accepted emotional condition on July 6, 1999 due to specific employment factors and she submitted medical evidence in support of her claim. Upon return of the case record, the Office should adjudicate this claim for a worsening of her accepted anxiety disorder and disability commencing on July 6, 1999 due to new factors of employment.

The December 16, October 4, August 25 and 10, 1999 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
August 8, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁵ See *Barbara A. Weber*, 47 ECAB 163, 165 (1995); *Dale M. Newbigging*, 44 ECAB 551, 554 (1993); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Time*, Chapter 2.801.4(b) (March 1993).