

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY CATHIRELL and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Palo Alto, CA

*Docket No. 00-1823; Submitted on the Record;
Issued May 10, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained residual disability from January 10 to February 27, 2000, causally related to her June 4, 1998 employment injury.

On June 4, 1998 appellant, then a 53-year-old medical instrument technician, was assaulted by another employee while at work and sustained back and right wrist injuries. The claim was ultimately accepted for back strain, a wrist contusion and panic disorder. Appellant missed some time from work following the injury and returned on July 20, 1998.

In a letter dated December 15, 1998, appellant advised the Office of Workers' Compensation Programs that she had been uncomfortable at work following the injury, due to continued contact with the employee who assaulted her. She further indicated that the employing establishment had done nothing to alleviate the resulting stress. The record reflects that appellant had previously informed the employing establishment in letters dated August 25 and September 23, 1998 about her continued problems at work and submitted medical evidence to support her contention that she should work separately from this employee. In medical reports dated September 14 and November 11, 1998, Dr. William Wong, appellant's treating psychiatrist, stated that appellant's anxiety and panic symptoms had been intensified when exposed to the male co-worker who assaulted her. He stated that continued exposure to this employee had aggravated appellant's psychological difficulties and indicated that accommodations should be made to restrict both employees from having contact.

In a letter dated December 18, 1998, the Office advised appellant that she might consider filing a CA-7 claim for total disability, upon which she would be placed in a leave-without-pay status and paid benefits until accommodated by the employing establishment.

On January 13, 2000 appellant filed a claim for compensation, Form CA-7, and indicated that she was disabled from work for the period November 29, 1999 through January 25, 2000.¹ In support, appellant submitted disability slips, along with an attending physician's report dated January 19, 2000 from Dr. Wong. In the CA-20 form, Dr. Wong diagnosed adjustment disorder with mixed emotional features and indicated that the condition was caused by ongoing stress related to circumstances of appellant's claim against the employing establishment. Dr. Wong further indicated that appellant was disabled from work from January 10 through 27, 2000.

In a letter dated February 10, 2000, the Office advised appellant that additional information was needed, including a comprehensive medical report with an explanation of the specific work conditions that have caused a new diagnosis and the current disability.

In response, the Office received a medical report from Dr. Wong, dated February 29, 2000, who stated:

"I believe that copies of her chart will be forwarded to you and hope that they will provide sufficient medical information to answer your concerns. In brief, however, [appellant], a patient under my care has experienced exacerbations of her mood, including depressed and anxious mood with decreases in concentration and function related to the stress of negotiating a satisfactory resolution to her initial complaint involving a co-worker. The stress has resulted from her perception that the process has been arbitrary and unfair at times, and with the lengthy delays in the process."

By decision dated April 4, 2000, the Office denied the claim for disability compensation for the period January 10 to February 27, 2000. The Office found that the evidence of record did not support that the alleged period of disability was causally related to the accepted incident of injury.

The Board finds that appellant has not established that she sustained residual disability from January 10 to February 27, 2000 causally related to her June 4, 1998 employment injury.²

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his or her claim, including that any disability for which compensation is claimed is causally related to the accepted employment injury.⁴ The Board has held that the mere concurrence of a condition with a period of employment does not

¹ On the reverse side of the CA-7 form, the employing establishment stated that appellant received continuation of pay from June 8 to September 9, 1998 and was on annual/sick leave from November 29, 1999 to January 28, 2000.

² Appellant claimed disability for the period November 29, 1999 through January 25, 2000, but the only period of disability adjudicated by the Office in the decision on appeal was from January 10 to February 27, 2000.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

raise an inference of causal relationship between the two.⁵ Further, appellant must submit a physician's rationalized medical opinion supporting a causal relationship between factors of federal employment and the claimed period of disability.⁶

While the Office has accepted that appellant sustained an employment-related panic disorder, appellant has submitted insufficient medical evidence to establish that she sustained any disability from January 10 to February 27, 2000, causally related to that employment injury. Dr. Wong submitted a medical report dated February 29, 2000 in support of appellant's claim; however, he did not describe appellant's condition as related to the accepted panic disorder or indicate a period of disability associated with the accepted condition. Instead, Dr. Wong reported that appellant has had moods of depression and anxiety resulting from negotiating a satisfactory resolution of her initial complaint involving her co-worker, and that her stress resulted from her perception that the process was delayed, arbitrary and unfair. Therefore, this report is of limited probative value to support appellant's claim for disability, causally related to the accepted panic disorder condition.

The attending physician's report submitted from Dr. Wong dated January 19, 2000 only provided speculative support for causal relationship.⁷ The report did not provide any medical rationale to explain why appellant's accepted panic disorder condition would become totally disabling from January 10 to February 27, 2000 or for any other time period. In light of appellant's new stress condition described in Dr. Wong's February 29, 2000 report, there is no clear indication that the condition outlined in the attending physician's report is related at all to appellant's accepted panic disorder. There are no contemporaneous reports of record indicating that appellant's accepted panic disorder was disabling during the claimed period or that any such condition was employment related. Therefore, the Office properly denied the claim.

⁵ *Charles E. Richardson*, 34 ECAB 1413 (1983).

⁶ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *See Shirley L. Burreston*, 34 ECAB 1154 (1983).

The decision of the Office of Workers' Compensation Programs dated April 4, 2000 is affirmed.

Dated, Washington, DC
May 10, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member