

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARNELL M. LAGRUE and U.S. POSTAL SERVICE,
POST OFFICE, New Orleans, LA

*Docket No. 02-622; Submitted on the Record;
Issued July 29, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an emotional condition in the performance of her duties.

The Board finds that appellant has not met her burden of proof to establish that she sustained an emotional condition causally related to her employment.

On October 16, 2001 appellant, then a 28-year-old letter carrier, filed a notice of traumatic injury and claim for compensation (CA 1), claiming she experienced stress in the performance of her federal duties when a customer came within 5 to 10 feet of her while on her route, made a gun gesture with her fingers and said “[p]ow, pow; that is for you mail lady. That is a threat.”

In support of her claim, appellant submitted an October 1, 2001 duty status report (CA-17) from a Dr. T.A. Hawley that diagnosed anxiety.

In a November 9, 2001 letter, the Office of Workers' Compensation Programs notified appellant that the medical evidence of record was insufficient to establish her claim.¹

Appellant subsequently submitted CA-17s dated October 23 and 30, 2001 that diagnosed anxiety and restricted appellant's activities and a CA-16 diagnosing anxiety with a normal physical examination. Each of the form documents was signed by Dr. Hawley. In the CA-16, Dr. Hawley's treatment plan included light work, “medications and work with the [employing establishment's] EAP.”

¹ The Board notes that appellant raised on appeal to the Board that she did not receive the November 9, 2001 letter informing her of the deficiencies in her claim. It is presumed in the absence of evidence to the contrary that a notice mailed to an individual in the ordinary course of business was received by that individual. This presumption arises when it appears from the record, as it does in the present case, that the notice was properly addressed and duly mailed.

In a December 14, 2001 decision, the Office denied appellant's claim finding the incident occurred but the record lacked rationalized medical evidence supporting that her medical condition was causally related to her employment.

The Board finds that appellant has not met her burden of proof to establish that she sustained an emotional condition in the performance of her duties.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish an emotional condition was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing that he or she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the condition; and (3) rationalized medical evidence establishing that the identified compensable employment factors are causally related to the emotional condition.⁵

The evidence required to establish causal relationship is medical opinion evidence, based on complete factual and medical background, showing a causal relationship between the claimed condition and the identified employment factors.⁶

The evidence of record at the time of the Office decision⁷ consisted of several CA-17s and a CA-16s. In response to question number five on the CA-17 asking how the injury occurred, Dr. Hawley wrote in the October 23, 2001 form "threatened by customer." In the November 27 CA-7 he wrote "anxiety."

Appellant has not submitted medical evidence containing a rationalized opinion that demonstrates knowledge of appellant's employment or the facts surrounding the alleged incident. Nor does the medical evidence explain how these factors caused her medical condition. Appellant has not met her burden of proof to establish her claim.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

⁵ *Bonnie Goodman*, 50 ECAB 139 (1998); *Samuel Senkow*, 50 ECAB 370 (1999).

⁶ *Ronald C. Hand*, 49 ECAB 113 (1997); *Earl David Seal*, 49 ECAB 152 (1997).

⁷ The Board notes that appellant submitted new medical evidence subsequent to the Office's decision. However, the Board cannot consider that evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).

The decision of the Office of workers Compensation Programs dated December 14, 2001 is hereby affirmed.

Dated, Washington, DC
July 29, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member