

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of LOLA B. LAYTON and DEPARTMENT OF VETERANS AFFAIRS,  
PALO ALTO HEALTH SYSTEM, MENLO PARK DIVISION, Menlo Park, CA

*Docket No. 01-2243; Submitted on the Record;  
Issued May 8, 2002*

---

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant sustained an emotional injury while in the performance of her duties.

On July 14, 2000 appellant, then a 46-year-old program assistant, filed an occupational disease claim asserting that her stress, depression, anxiety, paranoia and chronic pain were a result of the treatment she received from employees at work. She indicated that she was treated as "less than a human being."

The record shows that appellant filed two earlier claims for compensation, one for an injury on June 8, 1998, which was accepted for bilateral carpal tunnel syndrome and wrist tendinitis,<sup>1</sup> the other for an injury to her head, arm and back on March 10, 1999, which was denied.<sup>2</sup> The employing establishment advised that appellant had not worked since March 10, 1999.

The Office of Workers' Compensation Programs received medical records pertaining to appellant's right upper extremity. The Office also received a January 10, 2000 report from Dr. Morey A. Weingarten, a psychiatrist, who stated that he was treating appellant for a depressive disorder not otherwise specified that was secondary to chronic pain syndrome, which in turn was a function of her bilateral carpal tunnel syndrome. Dr. Weingarten reported that appellant's depression had been unresponsive to treatment due to the intractable quality of her pain.

The Office requested that appellant submit additional factual and medical evidence to support her claim. The Office requested that appellant submit, among other things, a detailed description of the employment-related conditions or incidents that she believed contributed to her

---

<sup>1</sup> OWCP File Number 13-1166905.

<sup>2</sup> OWCP File Number 13-1185862.

claimed psychiatric condition. The Office advised appellant to be as specific as possible, identifying relevant dates, locations, coworkers, supervisors, what was said and by whom, and any person who could verify her allegations.

Appellant responded that pain from her hands and arms caused her condition to worsen. She submitted a psychiatric discharge report that related, among other things, a significant increase in “job stress” around March 1999. The diagnosis at discharge was delirium secondary to medication regimen, rule out depression with psychotic features.

In a decision dated August 14, 2001, the Office denied appellant’s claim for compensation. The Office found that the evidence was insufficient to establish as factual the treatment that she allegedly received from employees at work. The Office found it unnecessary to review whether the medical opinion evidence established a causal relationship between this alleged treatment at work and appellant’s diagnosed psychological condition.

The Board finds that the evidence is insufficient to establish that appellant sustained an emotional injury while in the performance of her duties.

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>3</sup> has the burden of proof to establish the essential elements of her claim.<sup>4</sup> When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an “injury” as defined in the Act and its regulations.<sup>5</sup>

Appellant filed a claim for compensation asserting that her stress, depression, anxiety, paranoia and chronic pain were a result of the treatment she received from employees at work. The Office requested that she submit specific factual evidence about the treatment she received, but she provided no dates, identified no employees or witnesses, and never specifically described how the employees treated her. To obtain benefits, appellant must establish a factual basis for her claim by supporting her allegations with probative and reliable evidence.<sup>6</sup> With no such evidence in this case, appellant has failed to establish a specific event, incident or exposure occurring at the time, place and in the manner alleged. She has not met her burden of proof. The Board will affirm the Office’s August 14, 2001 decision denying appellant’s claim for compensation.

With no factual evidence to establish the treatment appellant received at work, the Office properly found that it was unnecessary to review whether the medical evidence was sufficient to establish a causal relationship between the alleged treatment and appellant’s diagnosed

---

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> See *Margaret A. Donnelley*, 15 ECAB 40 (1963).

<sup>5</sup> See generally *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) (“injury” defined); 20 C.F.R. § 10.5(q), 10.5(ee) (1999) (“occupational disease or illness” and “traumatic injury” defined).

<sup>6</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

psychological condition.<sup>7</sup> The Board notes, nonetheless, that appellant submitted no medical opinion evidence to establish that the alleged treatment she received from employees at work caused or contributed to her diagnosed psychological condition. In his January 10, 2000 report, Dr. Weingarten did not attribute appellant's depressive disorder not otherwise specified to any such treatment at work. He reported that appellant's condition was secondary to chronic pain syndrome, which in turn was a function of her bilateral carpal tunnel syndrome.<sup>8</sup> A psychiatric discharge report mentioned a significant increase in "job stress" around March 1999 but offered no details<sup>9</sup> and gave no opinion on whether this "job stress" caused or contributed to appellant's diagnosed condition.

The August 14, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
May 8, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

---

<sup>7</sup> When the matter alleged is a compensable factor of employment, and the evidence of record establishes the truth of the matter alleged, the Office must then base its decision on an analysis of the medical evidence. *Norma L. Blank*, 43 ECAB 384 (1992).

<sup>8</sup> In its August 14, 2001 decision, the Office advised appellant as follows: "Should you feel that your emotional condition arose from your accepted claim (13-1166905), please file Form CA-2a, notice of recurrence and follow the instructions provided on the form."

<sup>9</sup> See *Kathrine W. Brown*, 10 ECAB 618 (1959) (the physician failed to recite the actual circumstances upon which he predicated his conclusion).