

**United States Department of Labor
Employees' Compensation Appeals Board**

SHARON EDWARDS, Appellant

and

**U.S. POSTAL SERVICE, VILLAGE STATION
POST OFFICE, Los Angeles, CA, Employer,**

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**Docket No. 03-2165
Issued: December 22, 2003**

Appearances:
Sharon Edwards, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

JURISDICTION

On August 26, 2003 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated July 10, 2003, denying her claim for an emotional condition. Pursuant to 20 C.F.R. § 501.2(c) and 501.3, the Board has jurisdiction over the merits in this case.

ISSUE

The issue on appeal is whether appellant has met her burden of proof in establishing that she sustained an emotional condition in the performance of duty.

FACTUAL HISTORY

On October 2, 2002 appellant, then a 33-year-old letter carrier, filed a notice of occupational disease (Form CA-2), alleging that she sustained "mental stress" in the performance of duty on or before September 28, 2000. The Office assigned the case Claim No. 13-2068907. Appellant explained that she did not file her claim within 30 days as she was not given the results

of a fitness-for-duty examination until her attorney obtained the report on October 2, 2002. She stopped work on October 2, 2002 and had not returned to work as of February 1, 2003.¹

In an October 23, 2002 letter, the employing establishment controverted appellant's claim, asserting that she had not identified any employment factors. The employing establishment noted that appellant had not reported any feelings of stress or shown any signs thereof. The employing establishment explained that appellant had been on limited duty since January 23, 1999 and was given a temporary limited-duty job offer on October 2, 2002. She "refused to do the work offered to her" and completed two forms requesting leave without pay until October 28, 2002, which were denied. Appellant did not state on the leave request forms "that she had stress. She indicated ... that she was sent home by management due to lack of work, which [was] untrue."²

By letter dated January 3, 2003, the Office advised appellant of the type of medical and factual evidence needed to establish her claim. The Office requested a detailed description of the employment factors alleged to have caused the claimed stress condition, identifying "any relevant dates, locations, coworkers, supervisors, required duties, etc.," as well as witness statements. The Office also requested a detailed medical report from her attending physician explaining how and why the identified employment factors would cause the claimed stress condition. She was afforded 30 days in which to submit such evidence.

In a January 15, 2003 file memorandum, the Office noted that appellant had "an open accepted claim for stress related to an orthopedic condition" under Claim No. 13-2013501, the relationship of the new claim to the open claim must be determined.

In an undated letter received by the Office on May 22, 2003, appellant, through her attorney, refused an unspecified job offer as it had been disapproved by Dr. Charles M. Bosley, an attending orthopedic surgeon, in a May 8, 2003 report. A copy of this report is not of record.

By decision dated July 10, 2003, the Office denied appellant's claim on the grounds that fact of injury was not established. The Office found that appellant did not identify any employment factors to which she attributed her condition, noting that she had been advised of the type of evidence needed to establish her claim in the January 3, 2003 letter. The Office noted that, under Claim No. 13-2013501, the Office had accepted a lumbar sprain and major depressive disorder and that appellant was then receiving benefits on the periodic compensation rolls. The Office discussed an August 13, 2002 report from a Dr. Bedrin pursuant to Claim No. 13-2013501, which the Office found irrelevant to the present claim.³

¹ Appellant completed an affidavit of earning and employment on February 1, 2003 stating that she had not worked since October 2, 2002.

² There are no copies of the leave requests of record.

³ Although the Office erred by stating that appellant had referenced Dr. Bedrin's report in the undated letter received by the Office on May 22, 2003 and not Dr. Bosley's report, the Board finds that this is harmless, nondispositive error. Regardless of which medical report appellant's attorney did or did not mention in the May 22, 2003 letter, she did not submit any medical evidence of record accompanying the letter.

LEGAL PRECEDENT

To establish appellant's occupational disease claim that she sustained an emotional condition in the performance of duty, she must submit the following: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.⁴ Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. Such an opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.⁵

ANALYSIS

In this case, appellant did not submit sufficient evidence identifying the employment factors alleged to have caused the claimed stress condition. Although she stated in her claim form that she first experienced the claimed condition on September 28, 2000 appellant did not identify any work factors pertinent to that date. The only evidence she submitted other than the October 2, 2002 claim form is the undated letter from her attorney, which mentioned a medical report from a Dr. Bosley. However, appellant did not submit any medical evidence of record pursuant to the present claim. Thus, she has failed to meet her burden of proof to submit relevant, probative factual and medical evidence identifying causative employment factors and explaining how and why those factors would cause the claimed stress condition.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an emotional condition in the performance of duty as she failed to establish fact of injury.

⁴ See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁵ See *William P. George*, 43 ECAB 1159, 1168 (1992); see also *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 10, 2003 is affirmed.

Issued: December 22, 2003
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member