

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

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**ADA J. McKINSIE, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Pearl River, LA, Employer**

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**Docket No. 04-2134  
Issued: February 15, 2005**

*Appearances:*  
*Martin Kaplan, Esq.*, for the appellant  
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chairman  
DAVID S. GERSON, Alternate Member  
MICHAEL E. GROOM, Alternate Member

**JURISDICTION**

On September 1, 2004 appellant filed a timely appeal of the August 2, 2004 merit decision of the Office of Workers' Compensation Programs, which denied her claim for a May 8, 2001 recurrence of disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.<sup>1</sup>

**ISSUE**

The issue is whether appellant sustained a recurrence of disability on May 8, 2001 causally related to her January 5, 1989 employment injury.

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<sup>1</sup> The record on appeal includes evidence the Office received after issuing the August 2, 2004 decision denying reconsideration. The Board's review is limited to the evidence in the case record that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

## **FACTUAL HISTORY**

This case has previously been on appeal before the Board.<sup>2</sup> Appellant has an accepted claim for anxiety disorder due to a January 5, 1989 incident when she was robbed at gunpoint on the employing establishment's premises.<sup>3</sup> On May 8, 2001 she ceased work and alleged that she sustained a recurrence of disability causally related to her January 5, 1989 employment injury.<sup>4</sup> In a decision dated June 29, 2001, the Office denied appellant's claim for recurrence of disability. The Office denied modification by decision dated August 28, 2001. Additionally, the Office denied reconsideration in a decision dated December 26, 2001.

The Board affirmed the Office's August 28, 2001 merit decision, as well as the December 26, 2001 decision denying reconsideration. On the question of whether appellant sustained a recurrence of disability on May 8, 2001 the Board found that the medical evidence did not establish that her claimed recurrence was causally related to her January 5, 1989 employment injury. The Board further found that, based on appellant's own representations, her May 8, 2001 recurrence was not the result of a spontaneous change in her medical condition, but due at least in part to new exposures to the work environment.<sup>5</sup>

Following the Board's decision, the Office reviewed appellant's claim on the merits and denied modification on August 25 and 27, 2003.<sup>6</sup> Appellant requested reconsideration on October 20, 2003 and the Office denied her request by decision dated December 10, 2003. She filed another request for reconsideration on April 30, 2004. Appellant submitted reports and progress notes from Dr. Beverly A. Stubblefield, Ph.D, her clinical psychologist. She also submitted an April 20, 2004 report from Dr. Serge T. Celestin, a Board-certified psychiatrist. Dr. Celestin and Dr. Stubblefield were of the opinion that appellant's recurring post-traumatic stress disorder was due to multiple traumas she experienced in the workplace. The Office denied modification in a decision dated August 2, 2004.

## **LEGAL PRECEDENT**

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>7</sup> This term also means an inability to work when a light-duty assignment

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<sup>2</sup> Docket No. 02-471 (issued August 26, 2002).

<sup>3</sup> The Office also accepted that appellant sustained recurrences of disability on September 18, 1995 and July 3, 2000.

<sup>4</sup> At the time of her alleged recurrence appellant was employed as a modified distribution clerk; a position she held since April 23, 2001.

<sup>5</sup> The Board's August 26, 2002 decision is incorporated herein by reference. Appellant filed a petition for reconsideration of the Board's decision which was denied by order dated March 20, 2003.

<sup>6</sup> The Office conducted a second merit review on August 27, 2003 because it had overlooked certain medical evidence when it reviewed the claim on August 25, 2003.

<sup>7</sup> 20 C.F.R. § 10.5(x) (1999).

made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force) or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.<sup>8</sup>

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that she can perform the light-duty position, the employee has the burden of establishing by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the employment-related condition or a change in the nature and extent of the light-duty job requirements.<sup>9</sup>

### ANALYSIS

The Board previously affirmed the denial of appellant's claim because she attributed her May 8, 2001 recurrence to an April 26, 2001 incident where she was allegedly spoken to in a rude manner. This particular incident upset appellant "so badly [that her] hair began to come out in chunks." She also identified another incident of December 19, 1997 where she allegedly "had a conflict with her supervisor and had to be [taken] by ambulance to the hospital, which [resulted] in a [hiatal] hernia attack ... and a spot of ulcer."

The relevant medical evidence submitted since the Board last reviewed the merits of the claim on August 26, 2002 included progress notes from Dr. Stubblefield covering the period May 9, 2001 to February 18, 2004. Additionally, she submitted reports dated March 13, April 15, August 19, October 10 and 15 and December 19, 2003 and March 2, 2004. Dr. Celestin also submitted additional reports dated March 18, 2003 and April 20, 2004.

In her reports, Dr. Stubblefield attributed appellant's recurring post-traumatic stress disorder to "two traumatic incidents" that occurred while at work. The first traumatic event was the January 5, 1989 incident when appellant was robbed at gunpoint on the employing establishment premises. However, Dr. Stubblefield was less specific regarding the details of the second traumatic incident. She stated on August 19, 2003 that it was "exposure to the work environment of the postal system that caused the recurrence of the illness and, therefore, the disability." In an October 15, 2003 report, Dr. Stubblefield advised against returning appellant to either the New Orleans or Pearl River, Louisiana facilities because she had negative experiences when she previously worked at both facilities.

Dr. Stubblefield cited a number of additional contributing factors in her March 2, 2004 report. She explained that appellant's condition began with the January 5, 1989 employment incident. It was later exacerbated by efforts to return her to work and when she resumed work at the Pearl River facility appellant reportedly experienced conflict with other employees and felt a

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<sup>8</sup> *Id.*

<sup>9</sup> *Barry C. Peterson*, 52 ECAB 120, 125 (2000); *Terry R. Hedman*, 38 ECAB 222 (1986).

lack of support from supervisors, which further cued internal psychological problems. Dr. Stubblefield stated that these incidents were not new factors or new causes of appellant's disability, but instead they triggered symptoms of the prior trauma in 1989.

Dr. Celestin explained that appellant's current condition was the result of multiple factors. In a March 18, 2003 report, he stated that appellant had been under his care since November 17, 1998 with a diagnosis of major depression, post-traumatic stress disorder and panic disorder "as a result of two traumatic incidents [that] occurred at work." Dr. Celestin was more specific in an April 20, 2004 report. He diagnosed post-traumatic stress disorder "with multiple traumas" and noted three incidents that he related to appellant's current condition. The first incident was the 1989 robbery at gunpoint. Dr. Celestin also noted an argument with another coworker who held a knife and reportedly threatened appellant. The final contributing factor was her attempt to return to work, which resulted in increased anxiety, panic attacks, nightmares, flashbacks about previous incidents and hair loss. Dr. Celestin also reported that appellant's condition fluctuated over time due to her ongoing problems with workers' compensation, her financial hardship and the loss of her husband to cancer in December 2001. He explained that from her history it was obvious that appellant had been deteriorating since her first trauma in 1989. Dr. Celestin stated that she reinjured herself in 2001 leading to a recurrence of her post-traumatic stress disorder symptoms. He also stated that appellant's condition was the result of "cumulative traumas." Dr. Celestin advised that she should never return to work for the employing establishment.

Dr. Stubblefield and Dr. Celestin both indicated that appellant's current psychiatric condition was due to multiple factors, including the January 5, 1989 employment incident. Dr. Stubblefield stated that subsequent events triggered symptoms of the prior trauma in 1989 and Dr. Celestin stated that appellant reinjured herself in 2001 and her condition was the result of "cumulative traumas." A recurrence of disability is defined as a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>10</sup> Appellant and her treating physicians attributed the May 8, 2001 relapse to work exposure that postdated the accepted January 5, 1989 employment incident. Because the medical and factual evidence does not demonstrate a spontaneous change in her medical condition, by definition she has not sustained a recurrence of disability causally related to the January 5, 1989 employment injury.

### **CONCLUSION**

The Board finds that appellant failed to establish that she sustained a recurrence of disability on May 8, 2001 causally related to her January 5, 1989 employment injury.

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<sup>10</sup> 20 C.F.R. § 10.5(x) (1999).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 2, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 15, 2005  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member