



Appellant returned to the hospital and reported that a patient had sexually assaulted her during a home nursing visit.

Gary E. Dunn, a licensed clinical psychologist, indicated that he evaluated appellant on February 15, 2005 concerning the February 14, 2005 incident at work. He recommended that appellant be off work for one week and receive individual therapy.

By letter dated March 1, 2005, the Office asked appellant to submit additional factual and medical evidence, including a medical report with a diagnosis and opinion as to how the diagnosed condition was causally related to the February 14, 2005 incident.

In a February 17, 2005 report, a Dr. Cecil Peppiatt diagnosed an acute anxiety reaction and indicated by checking “yes” that the condition was causally related to the February 14, 2005 incident at work.

By letter dated March 17, 2005, the employing establishment controverted appellant’s claim on the grounds that the medical evidence did not establish that she sustained a medical condition as a result of the February 14, 2005 incident.

By decision dated April 4, 2005, the Office denied appellant’s claim on the grounds that the evidence was not sufficient to establish that the alleged incident on February 14, 2005 occurred as alleged or that she sustained a medical condition due to the alleged incident.<sup>1</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>2</sup> has the burden to establish the essential elements of 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, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the “fact of injury” has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>5</sup> An

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<sup>1</sup> Appellant submitted additional evidence subsequent to the Office decision of April 4, 2005. However, the Board’s jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Shirley A. Temple*, 48 ECAB 404 (1997).

employee may establish that the employment incident occurred as alleged but fail to show that her disability or condition relates to the employment incident.

To establish a causal relationship between appellant's condition and any attendant disability claimed and the employment event or incident, she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The 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 the claimant.<sup>6</sup>

### ANALYSIS

Appellant alleged that on February 14, 2005 she developed anxiety, insomnia and nausea when she was making a home nursing visit to a patient and was sexually assaulted. There were no witnesses to the incident but the record shows that appellant reported the event when she returned to the employing establishment that day. Although the Office did not accept the February 14, 2005 incident as factual, the Board notes that the employing establishment did not dispute that the incident occurred. The Board finds that there is sufficient evidence to establish that the February 14, 2005 incident occurred as appellant alleged. The remaining issue is whether there is sufficient medical evidence to establish that appellant sustained a medical condition as a result of the February 14, 2005 employment incident.

Dr. Dunn indicated that he evaluated appellant on February 15, 2005 concerning the February 14, 2005 employment incident. He recommended that she be off work for one week and receive individual therapy. However, he did not provide a diagnosis of her condition or explain how the incident had caused disability or the need for therapy. Due to these deficiencies, Dr. Dunn's report is not sufficient to establish that appellant sustained an injury on February 14, 2005, as alleged.

Dr. Peppiatt diagnosed an acute anxiety reaction and indicated by checking "yes" that appellant's condition was causally related to the February 14, 2005 incident at work. However, the Board has held that an opinion on causal relationship which consists only of checking "yes" to a question as to whether the claimant's disability was related to the history given is of little probative value.<sup>7</sup> Without any explanation or rationale, such a report is insufficient to establish causal relationship.<sup>8</sup> Therefore, Dr. Peppiatt's report is not sufficient to establish that appellant sustained an injury causally related to the February 14, 2005 employment incident.

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<sup>6</sup> Gary J. Watling, 52 ECAB 278 (2001); Shirley A. Temple, *supra* note 5.

<sup>7</sup> Calvin E. King, 51 ECAB 394 (2000).

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

**CONCLUSION**

The Board finds that appellant failed to establish that she sustained an injury on February 14, 2005 causally related to factors of her employment due to deficiencies in the medical opinion evidence of record.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 4, 2005 is affirmed, as modified.

Issued: September 21, 2005  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board