

Appellant stated that the physician who had treated her for her right wrist and elbow injuries had referred her to a psychiatrist, Dr. Walter Afield, Board-certified in psychiatry and neurology.

In a report dated September 2, 2003, Dr. Afield noted that appellant stated that her supervisor had pressured and harassed her. On July 2, 2003 appellant was looking for her boyfriend, who worked on a different floor in the same building, when her supervisor started questioning what she was doing and began following her around. This made her feel nervous, stressed, uncomfortable and anxious. When she began a vacation the next day, appellant consulted a physician due to anxiousness about her work status. Dr. Afield advised appellant's family to monitor her condition for fear that she could become suicidal if left untreated and unsupervised. He recommended that she begin psychotherapy and authorized psychometric testing to determine the degree of depression and whether she had developed additional disorders.

In a report dated February 20, 2004, Dr. Afield stated that appellant had been placed on medication to control her depression, but felt that she needed to decrease the dosage. She was very depressed, with neurodiagnostic testing confirming clinical findings of post-traumatic stress disorder and depression with generalized feelings of inadequacy. Dr. Afield did not believe appellant would succeed in the workplace, although he had encouraged her to do so. He stated that he would take a "wait and see" approach to her condition.

On June 2, 2004 the Office accepted appellant's claim, File No. 062023926, for acute post-traumatic stress syndrome. The Office paid temporary total disability compensation from September 2 to December 11, 2003.

In a June 3, 2005 memorandum, the Office combined her claims. In order to determine appellant's current condition, the Office referred appellant and a statement of accepted facts to Dr. Adrianus J. DeRuyter, Board-certified in psychiatry and neurology. In a March 28, 2005 report, Dr. DeRuyter stated that appellant had been physically and mentally abused as a child. He diagnosed post-traumatic stress disorder and major depressive disorder, recurrent and severe. Dr. DeRuyter stated:

"The diagnosed conditions are medically connected to her work injury through direct cause, aggravation, precipitation and acceleration. No nonindustrial or preexisting disability is present. [Appellant] describes a very tough and rough childhood with a suicide attempt at age eight. I do think that the abuse she described has made an everlasting impression on her psychological makeup but that she has been able to function in life despite all of this with little problems. Apparently the incident at work plus the subsequent problems with pay; with [appellant] losing everything that she had, developing physical problems that were not present before all this happened, has caused her to develop feelings for the employing establishment where she states she would not be able to return back to work at the employing establishment. Patient has made a correlation between the supervisor's behavior and her childhood abuse; the subsequent events have only hardened her position.

“The psychological condition is attributed to the perception by [appellant] of a similarity between the supervisor’s behavior and her childhood abuse. The subsequent financial problems secondary to the fact that she did not receive any pay including having to declare bankruptcy, losing her house, not being able to pay the bankruptcy fees once it was approved, her developing physical problems, which she did not have beforehand have caused as tremendous amount of stress in her life helping the post-traumatic stress disorder to persist despite treatment.”

On July 6, 2005 the Office issued a notice of proposed rescission of acceptance of appellant’s emotional condition on the grounds that the medical evidence did not show that it was consequential to her physical condition and that her emotional reaction to her supervisor or to her financial problem were not compensable factors. The Office allowed her 30 days to submit additional evidence or legal argument in opposition to the proposed rescission.

By letter dated August 1, 2005, appellant’s representative indicated that her mental condition was actually caused by the pain related to her carpal tunnel surgery. This, in turn, triggered her depression and anxiety and aggravated the emotional problems she had been able to control since childhood. Appellant’s representative stated that he was obtaining an updated medical report from Dr. Afield to support her continued entitlement to compensation based on an emotional condition.

On August 16, 2005 the Office rescinded its acceptance of appellant’s emotional condition claim.

On August 30, 2005 appellant’s representative requested an oral hearing, which was held on April 4, 2006.

In a September 6, 2005 report, Dr. Afield stated:

“[Appellant] has really done quite well in therapy and she is ready to go back to work. I think that is excellent. I think she will be a good employee. I do not see any accommodations that have to be made for her. She is capable of returning immediately, as far as I am concerned. She wants to continue seeing us and we will be glad to do so, so we can build on the steps we have done to decrease her depression and anxiety. We are continuing her on Prozac and Valium.... She is fully capable of returning to work.... I think we have ... got a good employee here and we have had an excellent cure.”

In a report dated September 13, 2005, Dr. Afield stated:

“[Appellant] is completely better. She is ready to go back to work. She is motivated. She wants to [go back to work]. We think that is an excellent idea. She will return on September 18, 2005. I think she can do anything [the employing establishment] asks her to do. She has had a wonderful recovery. We will continue to [treat her with medication] and solidify the gains. We have had a good result here.”

By decision dated May 30, 2006, an Office hearing representative reversed the August 16, 2005 rescission decision. The hearing representative noted that appellant had alleged

that her emotional condition was causally related to a July 2, 2003 work incident in which she was harassed by a supervisor and that her condition was consequential to pain caused by her work-related physical injuries. He noted that the statement of accepted facts contained no findings of fact concerning these allegations. The hearing representative found that Dr. DeRuyter lacked a proper factual medical background upon which to base his opinion. The hearing representative further found that the Office did not send all of appellant's medical records to Dr. DeRuyter which indicated that some of her emotional condition was attributable to financial difficulties. The hearing representative found that the Office did not properly rescind acceptance of an emotional condition at the time it issued its August 16, 2005 decision.

The hearing representative, however, terminated appellant's compensation benefits based on the September 6 and 13, 2005 reports from Dr. Afield, who opined that appellant had obtained an excellent cure and had recovered from her accepted emotional condition. The hearing representative therefore found that termination of compensation for the emotional condition was supported by Dr. Afield who indicated that appellant was completely better.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.²

ANALYSIS

The Office hearing representative based his decision to terminate appellant's compensation on the September 6 and 13, 2005 reports from Dr. Afield, appellant's treating physician. Dr. Afield stated on September 6, 2005 that appellant had benefited greatly from psychological therapy to the extent that she was ready to return to work immediately without the need for any accommodations. He noted that appellant wanted to continue with her therapy in order to build on the progress she had made in decreasing her depression and anxiety. Dr. Afield advised that appellant had obtained an excellent cure. In a September 13, 2005 report, Dr. Afield added that appellant was "completely better" and was ready, willing and motivated to return to work. He stated that appellant was slated to return to work on September 18, 2005 and had achieved a wonderful recovery.

The Board finds that Dr. Afield's opinion that appellant no longer had any residuals from her accepted emotional condition and not currently disabled is sufficiently probative, rationalized, and based upon a proper factual background. The Office properly relied on Dr. Afield's opinion to terminate compensation. He was the attending physician who initially diagnosed her emotional condition and administered psychological therapy which ameliorated her disability. Dr. Afield observed appellant's progress in overcoming her work-related

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

emotional disability to the extent that she was able to return to work on October 21, 2005, as she stated at the hearing. Therefore, his reports represented the weight of the medical opinion evidence. Accordingly, the Board finds that Dr. Afield's opinion constituted sufficient medical rationale to support the Office's May 30, 2006 decision terminating appellant's compensation for her emotional condition. The Board will affirm the May 30, 2006 Office decision.

CONCLUSION

The Board finds that the Office met its burden to terminate appellant's compensation benefits.

ORDER

IT IS HEREBY ORDERED THAT the May 30, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 14, 2006

Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board