

FACTUAL HISTORY

On October 7, 2003 appellant, then a 31-year-old mail clerk, filed a traumatic injury claim alleging that on September 9, 2003 she sustained stress, anxiety and panic disorder as a result of a former employee attempting to enter the building and treating her in a belligerent manner. A September 10, 2003 hazard report and undated narrative statement were received by the Office.

On October 17, 2003 the Office informed appellant that the information submitted was insufficient to establish her claim. The Office advised her to submit details of alleged employment incidents that caused or contributed to her emotional condition. The Office also asked for a medical report containing a description of appellant's symptoms, a diagnosis and an opinion with medical reasons on the cause of her condition.

The Office received a September 10, 2003 narrative statement from a coworker² describing the work incident during which a former employee entered the building and demanded that appellant allow him to see a supervisor.

The Office received progress notes dated September 25, 2003 from Dr. Stephen J. Friedman, Board-certified in psychiatry, who diagnosed appellant with dysthymia, panic disorder and general anxiety disorder. The Office also received chart notes dated September 24, 2003 from Diana Foster, a licensed professional counselor, who noted a history that appellant had been having panic attacks for about five years and had an attack on September 23, 2003. Appellant could not recall a time when she did not experience depression or anxiety, that she had trouble "on the job" since a back injury in 1999, that she was fired and then reinstated at work in 2002 and continued to view her work environment as hostile and that she was in the process of having her house foreclosed. An October 4, 2003 report from Ms. Foster, cosigned by Dr. Friedman, stated that appellant was temporarily disabled due to dysthymia panic and general anxiety disorder due to work-related stress.

By November 17, 2003 decision, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that a medical condition resulted from the incident. The Office accepted the September 9, 2003 incident as a compensable factor. The Office found that "an exemployee entered the building and was belligerent."

In a November 10, 2004 letter, appellant requested reconsideration. In a November 9, 2004 report, Dr. Randolph W. Pock, Board-certified in psychiatry, described appellant's current medical condition. Dr. Pock noted her history of injury and indicated that she described the onset of depression after a back injury at work in 1999. While off work for two and a half years, appellant began experiencing panic attacks, the first occurring at her uncle's home when "people were coming over. It felt crowded." After returning to work, she was assigned to check badges at a kiosk near the entrance of the building. Appellant felt unsafe because of the events of September 11, 2001. Dr. Pock diagnosed high anxiety and depression. He also opined that appellant's condition was too severe to return to work.

² This statement is unsigned.

In a February 10, 2005 decision, the Office denied modification of the November 17, 2003 decision on the grounds that Dr. Pock did not provide a well-rationalized medical opinion regarding the cause of appellant's diagnosed condition.

In an April 21, 2005 letter, appellant requested reconsideration. She submitted a March 30, 2005 addendum from Dr. Pock, who added further details describing the September 9, 2003 incident. Dr. Pock related appellant's statement that "I was there and he kicked the door open to come in. He still had his hand in his jacket holding something. I was scared because it took about 45 minutes to get management to talk to him. Then they would [not] tell me what had gone on. I said I did [not] feel good and asked to go home and they said I could [not]." Dr. Pock opined that appellant's symptoms were a result of the work incident.

By January 24, 2006 decision, the Office denied modification of the February 10, 2005 decision on the grounds that the medical reports were not sufficiently rationalized to establish the causal relation between the work incident and appellant's diagnosed condition.

LEGAL PRECEDENT

To establish her claim that she sustained an emotional condition in the performance of duty, a claimant must submit the following: (1) medical evidence establishing that she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.³

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers compensation. Where the medical evidence establishes that the disability results from an employee's emotional reaction to his or her regular or specially assigned employment duties or to a requirement imposed by the employing establishment, the disability comes within coverage of the Federal Employees' Compensation Act.⁴ The same result is reached when the emotional disability resulted from the employee's emotional reaction to the nature of her work or her fear and anxiety regarding her ability to carry out her duties.⁵ By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers compensation law because they are not found to have arisen out of employment, such as when disability results from an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.⁶ Moreover, although administrative and personnel matters are generally related to employment, they are functions of the employer and not duties of the employee. Thus, the Board

³ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Lillian Cutler*, 28 ECAB 125, 129 (1976).

⁶ *Id.* See also *Peter D. Butt, Jr.*, 56 ECAB ____ (Docket No. 04-1255, issued October 13, 2004).

has held that reactions to actions taken in an administrative capacity are not compensable unless it is shown that the employing establishment erred or acted abusively in its administrative capacity.⁷ Likewise, an employee's dissatisfaction with perceived poor management is not compensable under the Act.⁸

When working conditions are alleged as factors in causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment, which may be considered by a physician when providing an opinion on causal relationship and which are not deemed factors of employment and may not be considered. When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor.⁹ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, then the Office must base its decision on an analysis of the medical evidence.¹⁰ As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim but rather must be corroborated by the evidence.¹¹

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that her condition was caused or adversely affected by her employment.¹² Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹³

ANALYSIS

Appellant alleges that she sustained an emotional condition as a result of a workplace incident on September 9, 2003. The factual evidence establishes that the employment incident on September 9, 2003 described by appellant occurred as alleged and is a compensable factor. The Office accepted that an exemployee entered the building and became belligerent. The issue is whether the medical evidence establishes that the employment incident caused or contributed to appellant's diagnosed condition of anxiety and depression. The Board finds that the evidence of record lacks the requisite rationalized medical opinion to explain the causal relation between the incident and appellant's condition.

⁷ See *Charles D. Edwards*, 55 ECAB 258 (2004); see also *Ernest J. Malagrida*, 51 ECAB 287, 288 (2000).

⁸ See *id.*

⁹ *Margaret S. Krzycki*, 43 ECAB 496 (1992).

¹⁰ See *Charles D. Edwards*, *supra* note 7.

¹¹ *Id.*

¹² *Id.*

¹³ *Ronald K. Jablanski*, 56 ECAB ____ Docket No. 05-482 (issued July 13, 2005). See also *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

In a September 25, 2003 note, Dr. Friedman diagnosed dysthymia, panic disorder and general anxiety disorder but did not identify the cause of these conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁴ The October 4, 2003 medical status report from Ms. Foster, cosigned by Dr. Friedman, stated that appellant was temporarily disabled due to dysthymia panic and general anxiety disorder due to work-related stress. The report only identified the cause of this disability as work and did provide a discussion of the issue of causal relationship. The chart notes dated September 24, 2003 from Ms. Foster, are of no probative value as she is not a physician as defined under the Act.¹⁵

Dr. Pock submitted several reports. In a November 9, 2004 opinion, Dr. Pock diagnosed appellant with anxiety and depression. He opined that appellant had an exacerbation of her symptoms following the incident on September 9, 2003. Dr. Pock opined that appellant's condition was so severe that she was unable to return to work. He noted that appellant stated that her depression increased after the incident.¹⁶ An award of compensation may not be based on appellant's mere belief of causal relationship.¹⁷

In a March 30, 2005 report, Dr. Pock described the physical symptoms appellant experienced after the incident. He opined that the symptoms were a result of her fear during the incident. Dr. Pock also stated that financial difficulties were not the cause of appellant's condition. He stated that appellant did not experience symptoms or require treatment prior to her 1999 back injury. However, the mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.¹⁸

Dr. Pock related that appellant has a long history of depression, anxiety and panic attacks. He has also noted a history of numerous stressors in appellant's life other than the work incident at issue. Dr. Pock has not explained how pathophysiologically the incident of September 9, 2003 caused appellant's current diagnosed condition. As there is no probative, rationalized medical evidence addressing how appellant's diagnosed dysthymia, anxiety and depression was caused or aggravated by the work incident on September 9, 2003 she has not met her burden of proof to establish that she sustained an injury in the performance of duty causally related to factors of her federal employment.

CONCLUSION

Appellant has not met her burden to establish that her emotional condition is causally related to the work incident on September 9, 2003.

¹⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁵ Under 5 U.S.C. § 8101(2), "physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law."

¹⁶ In both of his opinions, Dr. Pock discussed appellant's back injury of 1999, but that is a separate claim.

¹⁷ *Dennis M. Mascarenas*, *supra* note 13.

¹⁸ *Lucrecia M. Nielsen*, 42 ECAB 583, 593 (1991); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

ORDER

IT IS HEREBY ORDERED THAT the January 24, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 5, 2007
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