

work on October 16, 2004. Appellant became aware of the condition on May 5, 2004. On December 27, 2005 the Office accepted her claim for of anxiety reaction and depressive disorder, single episode and post-traumatic stress disorder (PTSD).² Appellant was placed on the periodic compensation rolls.

In a February 7, 2006 attending physician's report, Dr. Benjamin F. Isom, a licensed clinical psychologist, diagnosed major depression and PTSD. He opined that appellant's condition was caused or aggravated by her employment activity. Dr. Isom indicated that appellant was disabled from October 14, 2004 to January 23, 2006. Thereafter, appellant could return to full duty, after a gradual return of four hours the first week, six hours the second week and eight hours thereafter.

In a letter dated March 24, 2006, Barbara Cronin, a human resource specialist with the employing establishment, stated that appellant would return to part-time work on April 1, 2006, as a flexible city carrier in Casselberry, Florida. On April 19, 2006 the Office confirmed that appellant had returned to full-time regular work on April 1, 2006.

In a May 11, 2006 letter, appellant requested that the employing establishment transfer her to a different office due to an alleged conflict of interest with the postmaster in Casselberry. On June 12, 2006 appellant notified the Office that she was no longer working as the employing establishment did not offer her a suitable position based on her condition. The Office subsequently received several notes from a licensed mental health counselor. On November 2, 2005 Dr. Isom indicated that appellant needed episodic psychological and psychiatric care. He advised that she should be able to resume her occupation as a postal carrier in the future.

On August 29, 2006 appellant completed a (Form CA-7) claiming disability compensation for the period commencing August 14 to 31, 2006. On September 25, 2006 she completed a CA-7 form for the period commencing August 14, 2006. On September 28, 2006 appellant filed a notice of recurrence of disability. She alleged that her recurrence of disability began on August 14, 2006. Appellant alleged that she was placed in a coercive environment which was similar to the one in the original injury.

By letter dated September 25, 2006, the employing establishment controverted appellant's claim. Jelores Blake, an injury compensation specialist, alleged that appellant's original injury occurred on May 5, 2004. She noted that appellant did not file her claim until five months later; however, appellant had personal issues which included filing for divorce seven days after the incident and remarrying shortly thereafter. Ms. Blake also alleged that appellant was removed from the environment where the original claim occurred and no longer worked with the individual involved. Appellant was reassigned to the Central Florida district on April 1, 2006 and had some attendance issues which were being handled administratively.

By letter dated October 6, 2006, the Office requested additional factual and medical evidence.

² The Office initially denied appellant's claim in a December 20, 2004 decision. On December 27, 2005 the Office vacated the December 20, 2004 decision.

In an October 2, 2006 treatment note, Dr. Elias Gongora, a licensed clinical psychologist, opined that appellant had PTSD and was unable to work. He submitted additional reports reiterating that appellant was unable to work. On October 19, 2006 Dr. Gongora advised that appellant would require at least two months off work. The Office received an October 11, 2006 report from Linda Messing Cook, a mental health counselor, who advised that appellant was unable to work.

In a September 29, 2006 statement, John Grimsley, manager of customer service at the Winter Springs Post Office, indicated that appellant began working in June 2006 and was substandard in her performance, but the management staff had assisted her and treated her with dignity and respect. On August 9, 2006 appellant was advised that there would be no work for her but that she should report for work on August 14, 2006. Mr. Grimsley indicated that, on August 11, 2006, appellant informed him that she was considering resigning as she wished to work with her husband in a home business. Appellant called him on August 14, 2006 and requested sick leave for three days, which was denied. She was carried as absent without leave since August 14, 2006, as she did not provide the employing establishment with the proper documentation.

In an October 4, 2006 statement, Linda Carlson, the postmaster of the Casselberry Post Office, advised that appellant took almost twice as long to do her route and carried less than half the route. She also alleged that appellant inquired into another position; however, appellant would not be eligible to apply until after a year and completing out an appropriate form. Thereafter, appellant accused Ms. Carlson of disrespecting her and talking down to her.

By decision dated November 7, 2006, the Office denied appellant's claim for a recurrence of disability beginning August 14, 2006.

On April 19, 2007 appellant's representative requested reconsideration. The Office subsequently received treatment notes dated October 2 to 30, 2006 from Dr. Gongora, who advised that appellant was having moderate to severe symptoms of PTSD and would require intensive and lengthy psychotropic and psychotherapeutic treatment. Dr. Gongora recommended that she be off work for two months, with a gradual return to her job duties. In a May 1, 2007 treatment note, he repeated his opinion that appellant was unable to return to work. On June 8, 2007 Dr. Gongora noted that she was depressed and anxious. He advised that appellant was ready to return to work as long as she was allowed to return gradually.

By letter dated June 15, 2007, the employing establishment advised appellant that she had been reassigned to the Altamonte Springs Office, effective June 23, 2007.

By decision date July 23, 2007, the Office denied modification of its November 7, 2006 decision.

LEGAL PRECEDENT

Section 10.5(x) of the Office's regulations provides that 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.³

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.⁴

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.⁵

ANALYSIS

The Office accepted appellant's claim for anxiety reaction and depressive disorder, single episode and PTSD disorder in the performance of duty. The employing establishment advised the Office that appellant returned to full regular duty on April 1, 2006 at a new location. Appellant filed a notice of recurrence of disability on September 28, 2006 alleging disability beginning August 14, 2006. However, she did not submit sufficient medical evidence to establish that her disability on or after that date was causally related to her accepted injury. Appellant did not submit a medical report from a treating physician which adequately explained why her disability beginning August 14, 2006 was due to the accepted injury.

The record contains reports from Dr. Gongora, who noted in an October 2, 2006 treatment note that appellant had PTSD and was unable to work. He indicated that she was depressed and anxious. Dr. Gongora's subsequent notes reiterated that she was unable to work for at least two months. The Board finds that Dr. Gongora's reports are insufficient to establish appellant's claim as he did not attribute her disability to her accepted condition. He did not explain why appellant was unable to work on or after August 14, 2006 due to her accepted employment condition. While he provided disability certificates advising that she was unable to work, he did not provide any objective findings to support his conclusion.⁶

³ 20 C.F.R. § 10.5(x); see *Theresa L. Andrews*, 55 ECAB 719 (2004).

⁴ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.104.

⁵ *Walter D. Morehead*, 31 ECAB 188 (1986).

⁶ See *Laurie S. Swanson*, 53 ECAB 517 (2002) (where a physician's report does not indicate an objective worsening of a claimant's condition, and the physician's statements regarding a claimant's ability to work consist primarily of a repetition of the claimant's complaints that she hurt too much to work, this is not a basis for payment of compensation).

Appellant also submitted several reports from a licensed mental health counselor. However, they are of no probative value inasmuch as the counselor is not a “physician” as defined under the Federal Employees’ Compensation Act.⁷

Appellant did not submit any other medical evidence to support a recurrence of disability beginning August 14, 2006, with objective findings to support that her recurrence which was causally related to the work injury of May 5, 2004. Consequently, she has not met her burden of proof in establishing her claim for a recurrence of disability.⁸

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish a recurrence of disability beginning August 14, 2006 causally related to the accepted employment condition.

⁷ See 5 U.S.C. § 8101(2) which provides: “physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law”; see also *Roy L. Humphrey*, 57 ECAB ____ (Docket No. 05-1928, issued November 23, 2005).

⁸ To the extent that appellant’s transfer to another employing establishment location upon her return to work on April 1, 2006, may be considered a return to a light-duty assignment made to accommodate her accepted condition, the Board notes that the evidence does not indicate that the employing establishment withdrew or modified appellant’s assignment prior to her work stoppage. See *Terry R. Hedman*, 38 ECAB 222, 227 (1986); 20 C.F.R. § 10.5(x).

ORDER

IT IS HEREBY ORDERED THAT the July 23, 2007 and November 7, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 4, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

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