

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

_____)	
A.M., Appellant)	
)	
and)	Docket No. 08-2300
)	Issued: July 6, 2009
U.S. POSTAL SERVICE, POST OFFICE,)	
Pearl River, LA, Employer)	
_____)	

Appearances:
Alan J. Shapiro, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 20, 2008 appellant filed a timely appeal from a July 21, 2008 decision of the Office of Workers' Compensation Programs denying a 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.

ISSUE

The issue is whether appellant has established that she sustained a recurrence of disability on and after May 8, 2001 causally related to the accepted emotional conditions.

FACTUAL HISTORY

This case has previously been before the Board. By decision dated February 15, 2005,¹ the Board affirmed an August 2, 2004 decision of the Office denying a recurrence of disability

¹ Docket No. 04-2134 (issued February 15, 2005). The Office accepted that, on January 5, 1989, appellant, then a 31-year-old distribution clerk, sustained an anxiety disorder when she was robbed at gunpoint in the performance of duty. It paid appropriate wage-loss compensation and medical benefits.

commencing May 8, 2001. The Board found that appellant's physicians attributed the claimed recurrence of disability to September 1995 and April 2001 intervening incidents and not the January 1989 robbery which caused the accepted anxiety disorder. The law and the facts of the case as set forth in the prior decision and order are incorporated by reference.

Following a second appeal, appellant made several requests for reconsideration, asserting that an intervening cause did not negate causal relationship.² She submitted additional evidence.³

Dr. Beverly A. Stubblefield, an attending licensed clinical psychologist, opined in a May 8, 2001 report that the stress of attempting to return to work rendered appellant permanently disabled. In a March 30, 2005 report, she opined that a September 1995 incident in which a coworker threatened appellant with a knife disabled her for work through April 2001. On January 10 and April 4, 2007 Dr. Stubblefield explained that, while the 1995 knife threat and a 2001 conversation with an official about returning to work precipitated severe psychiatric symptoms, appellant's emotional conditions remained related to the January 1989 robbery.⁴

Dr. Serge T. Celestin, an attending Board-certified psychiatrist, submitted reports from September 2, 2003 to February 6, 2006 finding that appellant's anxiety, depression, auditory hallucinations, paranoia and hair loss remained directly related to the January 1989 robbery.

In a November 1, 2006 report, Dr. Janet Seligson-Dowie, an attending Board-certified psychiatrist, diagnosed major depressive disorder and post-traumatic stress syndrome related to the January 1989 robbery. She submitted reports through January 10, 2007. The Office accepted post-traumatic stress disorder, major depressive disorder and transient sleep disorder as causally related to the January 1989 robbery.

By decisions dated May 11 and July 22, 2005, March 9, 2006,⁵ March 6 and June 19, 2007, the Office denied modification as the medical evidence established intervening incidents, breaking the chain of causation from the January 5, 1989 robbery.⁶

In a July 18, 2007 letter, appellant requested reconsideration, asserting that the Office misstated the law. She submitted excerpts of the implementing federal regulations. By decision

² On February 23, 2006 appellant filed a claim for wage-loss compensation from May 8, 2001 onward.

³ Appellant also submitted an August 1996 nurse's note, a January 2004 agreement to mediate an unspecified dispute and September 2005 administrative forms.

⁴ Dr. Stubblefield also submitted chart notes from October 2003 to April 18, 2007 diagnosing depression, anxiety and panic attacks due to appellant's personal and financial difficulties.

⁵ While the issue statement and analysis of the March 9, 2006 decision reflect a merit denial of modification, the attached cover letter denied reconsideration. In later decisions, the Office referred to the March 9, 2006 decision as a merit decision.

⁶ The Office also issued November 29, 2005, December 20, 2006, March 22 and August 9, 2007 decisions denying reconsideration on the grounds that the evidence submitted was cumulative or irrelevant to the claim.

dated August 9, 2007, the Office denied reconsideration on the grounds that appellant's letter and associated evidence were irrelevant to her claim.

On August 2, 2007 appellant filed an occupational disease claim (Form CA-2) alleging that she sustained an emotional condition due to an April 26, 2001 conversation with an employing establishment official about a modified-duty position.

In a February 5, 2008 letter, appellant requested reconsideration. She asserted that she could not work after an April 26, 2001 incident where she felt threatened by an employing establishment official. In a January 10, 2008 report, Dr. Stubblefield opined that appellant experienced additional trauma due to the 1995 knife threat and April 2001 conversation.⁷ Appellant also submitted an August 9, 2007 report from Dr. Seligson-Dowie, opining that the April 26, 2001 incident caused a psychiatric injury.

By decision dated July 21, 2008, the Office denied modification on the grounds that appellant's statement and the medical evidence implicated two intervening incidents, breaking the chain of causation from the January 1989 robbery.

LEGAL PRECEDENT

The Office's implementing regulations define a recurrence of disability as "an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."⁸ When an appellant claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury. This burden includes the necessity of furnishing evidence from a qualified physician, who on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury. Moreover, sound medical reasoning must support the physician's conclusion.⁹ An award of compensation may not be based on surmise, conjecture or speculation or on appellant's unsupported belief of causal relation.¹⁰

ANALYSIS

The Office accepted that appellant sustained an anxiety disorder, post-traumatic stress disorder, major depressive disorder and a transient sleep disorder when she was robbed while at work on January 5, 1989. Appellant claimed that she sustained a recurrence of disability

⁷ Appellant also submitted an August 8, 2007 letter from Dr. Stubblefield repeating her April 4, 2007 letter.

⁸ 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b(a)(1) (May 1997). See also *Philip L. Barnes*, 55 ECAB 426 (2004).

⁹ *Ricky S. Storms*, 52 ECAB 349 (2001).

¹⁰ *Alfredo Rodriguez*, 47 ECAB 437 (1996).

commencing May 8, 2001. She has the burden of providing sufficient evidence, including rationalized medical evidence, to establish the causal relationship asserted.¹¹

The Board finds, however, that intervening incidents negated the causal relationship between the accepted 1989 injury and appellant's condition. On August 2, 2007 appellant claimed that she sustained an emotional condition on April 26, 2001 due to a conversation with an employing establishment official about a light-duty job. She thus implicates an intervening cause.

Appellant's physicians attributed the claimed recurrence of disability to a September 1995 threat by a coworker and the April 26, 2001 conversation. Dr. Stubblefield, an attending licensed clinical psychologist, found that a September 1995 threat by a coworker disabled appellant for work from September 1995 through April 2001. She opined that an April 26, 2001 conversation with an employing establishment official caused and aggravated psychiatric conditions. Dr. Seligson-Dowie, an attending Board-certified psychiatrist, stated in an August 9, 2007 report that the April 26, 2001 conversation caused a psychiatric injury. Dr. Celestin, an attending Board-certified psychiatrist, supported a continuing causal relationship, but did not discuss the 1995 or 2001 incidents.

The Board finds that appellant's exposure to new work factors broke the chain of causation stemming from the accepted conditions caused by the January 1989 robbery. The circumstances did not involve a spontaneous change in the accepted emotional conditions on and after May 8, 2001.¹² For this reason, the Office's denial of the claimed recurrence of disability was proper under the law and the facts of the case.

CONCLUSION

The Board finds that appellant has not established that she sustained a recurrence of disability on and after May 8, 2001 causally related to accepted emotional conditions.

¹¹ *Ricky S. Storms, supra* note 9.

¹² *Bryant F. Blackmon, 56 ECAB 752 (2005).*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 21, 2008 is affirmed.

Issued: July 6, 2009
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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