

sending out mail and parcels.¹ Appellant stated that her injury occurred on November 25, 2003 the day she stopped work. The employing establishment controverted the claim. Appellant's supervisor noted that she was downgraded due to a previous disciplinary action. On November 25, 2003 when appellant reported to work, she realized that she failed to close the office at the end of the prior business day and did not dispatch the outgoing mail from November 24, 2003.

Appellant submitted form reports from Dr. Carlos Vega-Bonilla, a Board-certified psychiatrist, who supported that her condition was employment related. In a January 16, 2004 narrative report, Dr. Vega-Bonilla noted first seeing appellant on July 16, 2003 for post-traumatic stress and depression when she was admitted to a crisis stabilization program. Appellant was discharged on July 23, 2003 and he noted "begrudgingly" releasing her to work on October 23, 2003. On November 27, 2003 she was readmitted for an acute exacerbation of post-traumatic stress due to perceived harassment at work. Appellant was discharged on December 23, 2003 but was readmitted on January 13, 2004 for symptoms that were "apparently" triggered by a letter she received from the Department of Labor and "ongoing problems" with the employing establishment. She related that her problems began in November 2002 when difficulties with her employer escalated and that she felt she was being "set up" at work by being accused of fraud and placed on administrative leave. Dr. Vega-Bonilla advised that appellant had a history of chronic depression of more than two years' duration. He also noted, after a marriage of 23 years, appellant divorced and then was in a marriage of convenience for about one year when she reported being sexually coerced in March 1999. Dr. Vega-Bonilla diagnosed recurrent major depression and an anxiety disorder with salient features of post-traumatic stress disorder.

In a January 26, 2004 decision, the Office denied appellant's claim. On March 4, 2005 an Office hearing representative set aside the January 26, 2004 decision, finding that appellant identified compensable work factors. Appellant had to deal with inquiries from customers regarding 24-hour-a-day lobby access, she was advised about complaints from two customers about delayed mail, she had problems in paying the employing establishment's utility bills because she did not have proper authorization on a government-issued credit card, she was advised of a customer complaint that she did not put proper postage on a piece of priority mail and, on November 25, 2003, she discovered that she had forgotten to dispatch the mail and deposits the previous evening. The hearing representative remanded the case for further development of the medical evidence.

In an October 4, 2005 decision, the Office denied the claim; however, an Office hearing representative found the case was not in posture for decision and directed further medical development.

On August 28, 2006 the Office accepted appellant's claim for temporary aggravation of major depressive disorder resolved no later than December 23, 2003. It found that the weight of the evidence was represented by the July 23, 2006 report of Dr. Mark E. Reynolds, a Board-certified psychiatrist, who performed a second opinion examination of the medical records. He

¹ The record reflects that appellant filed a prior claim for an emotional condition in the summer of 2003, which was denied under claim no. xxxxxx905.

found that appellant had a temporary aggravation of major depressive disorder, that resolved no later than December 23, 2003, when she was discharged from hospitalization. Dr. Reynolds noted that factors, which contributed to appellant's condition, included the opening time of the employing establishment and forgetting to dispatch the mail and deposits.

Appellant disagreed with the August 28, 2006 decision and requested a hearing, which was held on February 23, 2007. She submitted a July 24, 2006 report from Dr. Robert L. Johnson, an osteopath and psychiatrist, who reviewed appellant's history and medical treatment. Dr. Johnson advised that her complaints always included some sort of remedy at law, and a request for a "maximal financial award." He advised that he was "completely unable to either confirm or deny any of the allegations made in the past toward the patient." Dr. Johnson noted that appellant continued to harken back to the multiple stressors she had endured." Appellant related that she loved her job and her life was centered around working for the employing establishment. Dr. Johnson diagnosed recurrent major depressive disorder, generalized anxiety disorder involving components of post-traumatic stress disorder and a relational problem not otherwise specified.

In a June 5, 2007 decision, an Office hearing representative found that Dr. Reynolds' opinion was of diminished probative value because he did not actually examine appellant, did not review all of the medical records and provided a speculative opinion. The hearing representative remanded the case for further development of the medical evidence.

On June 15, 2007 appellant was referred for a second opinion examination together with a statement of accepted facts and the medical record, to Dr. Brian Grant, a Board-certified psychiatrist. In a July 17, 2007 report, Dr. Grant reviewed appellant's history and listed findings on mental status examination. Appellant denied any hallucinations or frank delusions. When asked whether she felt paranoid, appellant stated, "if she were to go back to work, somebody would set her up for failure." Appellant denied any wish to harm herself or others. Dr. Grant advised that appellant was oriented to time, place and person, with an average intellect and could name current events. He stated that appellant presented with a fragile emotional history dating at least to the time of a 1998 sexual assault and various difficulties presented themselves in the context of her employment and other situations, including her marriage. Dr. Grant opined that appellant had a temporary aggravation of major depression exacerbated by her work but that she was now substantially improved. He diagnosed a recurrent major depressive disorder and panic disorder. Dr. Grant explained that it was difficult to determine whether appellant's underlying conditions stemmed from the work-related events. Such short-term work-related events, however, were not sufficient grounds for long-term psychopathology. Dr. Grant stated that it was reasonable to assume that appellant experienced a temporary aggravation of a preexisting or underlying condition, which had since resolved and her current depressive disorder was not related to work factors. He noted that appellant had prior preexisting conditions, which included the sexual assault in which her mental status was far worse. On July 24, 2007 Dr. Grant reviewed a report from psychological testing and found the results were consistent with his diagnosis and opinion on appellant's functional capacity.

The Office asked that Dr. Grant clarify when the work-related aggravation of appellant's depressive disorder ceased. In a September 26, 2007 addendum, Dr. Grant explained that

appellant's work-related aggravation had resolved when she was discharged from the crisis center on December 23, 2003.²

On August 27, 2008 the Office proposed to terminate appellant's compensation. It advised her that the weight of the medical evidence was represented by Dr. Grant and demonstrated that the work-related aggravation of her preexisting condition had ceased.

In an October 1, 2008 decision, the Office terminated appellant's compensation effective that date. It found that Dr. Grant's opinion established that her condition resolved no later than December 23, 2003.

Appellant's representative requested a telephonic hearing, which was held on February 18, 2009. In reports dated from June 5, 2007 to April 28, 2008, Dr. Daniel D. Varnell, a Board-certified psychiatrist and neurologist, noted that appellant presented with issues related to anxiety and depression. Appellant related that her anxiety attacks were triggered by seeing someone who looked similar to someone from her past. Dr. Varnell noted that appellant worked as a postmaster and related that she was sexually harassed by a superior. Appellant reported the harassment to the authorities but experienced retaliation that included a six-month suspension and the eventual loss of her job. Appellant related having "flash backs" of harassment and the treatment she received from her superiors. Dr. Varnell diagnosed depression, anxiety and post-traumatic stress disorder. He also noted that appellant had stress due to the death of a friend's sister. Appellant's depression was about the same with "continued distress over the loss of her job at the post office. Has a hard time getting past it." Appellant related that her husband worked 10-hour shifts, which left her alone with no one to talk to. Dr. Varnell noted that appellant was having "erratic spending" issues and stress including her son-in-law's, inoperable cancer and her mother's surgery. He related that appellant was "frustrated by her memory lately and forgetting simple things such as peoples' names, repeats herself at times as well." Dr. Varnell noted that appellant admitted it "could be anxiety and trying to not recall bad things from her past."

In an October 10, 2008 report, Dr. R.A. Johnson, a Board-certified psychiatrist, diagnosed anxiety and dysthymic disorder that predated 2003. He noted that appellant's symptoms included generalized worry and hypervigilance. Dr. Johnson explained that appellant would mistakenly identify a passerby for a former colleague from the employing establishment, which she left in 2003. He also noted that, earlier in 2003, appellant related that she had been sexually harassed by a coworker, which was reported, but without satisfactory response. Dr. Johnson noted that she had severe hypervigilant insomnia that was preceded in late 2003 by acute stress disorder. He opined that appellant had a history of post-traumatic stress disorder, secondary to a rape in 1998, but those symptoms were no longer present. Dr. Johnson also diagnosed obsessive-compulsive personality disorder, moderately severe. He advised that appellant now lived in a community new to her and far from her previous home. Dr. Johnson opined that her personality disorder as well as the rape of 1998, each contributed to the severity of the psychological harm of the workplace trauma of 2003. He found that appellant was currently unable to work.

² Dr. Grant actually stated December 25, 2003 but, from the context of the evidence, this is a typographical error.

By decision dated April 20, 2009, the Office affirmed the October 1, 2008 decision terminating appellant's compensation.

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.³ 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.⁴ The fact that the Office accepts a claim for a specified period of disability does not shift the burden of proof to the claimant to show that she is still disabled. The burden is on the Office to demonstrate an absence of employment-related disability in the period subsequent to the date when compensation is terminated or modified.⁵

In assessing medical evidence, the weight of such evidence is determined by its reliability, its probative value and its convincing quality. The opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion are facts which determine the weight to be given each individual report.⁶

ANALYSIS

The Office accepted that appellant sustained a temporary aggravation of a major depressive disorder that resolved no later than December 23, 2003. The Office terminated benefits effective October 1, 2008. The Board finds that the weight of the medical evidence rests with Dr. Grant who submitted a thorough medical opinion based upon a complete and accurate factual and medical history. Dr. Grant performed a complete examination, reviewed the record and obtained diagnostic testing. He found that appellant had no continuing disability from her accepted employment injury, was capable of performing her usual employment and that further medical treatment was not necessary.

In a July 17, 2007 report, Dr. Grant reviewed appellant's past psychiatric history and provided findings on mental status examination. He noted that appellant denied hallucinations or frank delusions. Dr. Grant advised that, when asked whether appellant felt paranoid, she related that, "if she were to go back to work, somebody would set her up for failure. She denied any wish to harm herself or others." Dr. Grant also indicated that appellant was oriented to time, place and person, with an average intellect and could name current events. He advised that appellant presented with a fragile emotional history dating at least to the time of her sexual

³ *Lawrence D. Price*, 47 ECAB 120 (1995).

⁴ *Id.*; see *Patricia A. Keller*, 45 ECAB 278 (1993).

⁵ *Elsie L. Price*, 54 ECAB 734 (2003).

⁶ See *Connie Johns*, 44 ECAB 560 (1993).

assault, and various difficulties, which presented themselves in the context of her employment, as well as situations such as her marriage. Dr. Grant opined that appellant had a temporary aggravation of major depression exacerbated by her work but that she was now substantially improved. He explained that it was difficult to find whether appellant's underlying conditions stemmed from the work-related events. However, Dr. Grant noted that short-term events, such as the noted workplace events, were not sufficient grounds for long-term psychopathology. He opined that it was reasonable to expect that appellant experienced a temporary aggravation of a preexisting or underlying condition, which had since resolved. Dr. Grant noted that appellant had prior preexisting conditions, which included a sexual assault, where her mental status was far worse. In his addendum dated September 26, 2007, Dr. Grant opined that appellant's work-related aggravation had resolved when she was discharged from the crisis center on December 23, 2003.

The Board finds that Dr. Grant's opinion represents the weight of the medical evidence as his reports are well rationalized and based upon a proper factual background. The Office properly relied upon his reports in finding that the accepted aggravation of appellant's emotional condition. Dr. Grant examined appellant, reviewed her medical records and reported accurate medical and employment histories. He indicated that appellant experienced a temporary aggravation of a preexisting or underlying condition, which had since resolved. Dr. Grant noted her previous conditions, including a sexual assault, where her mental status was far worse. Reports from other physicians, as noted, also support that appellant had significant emotional problems prior to 2003. In Dr. Grant's supplemental report, he emphasized that the employment injury had resolved. Because he provided a rationalized medical opinion of record addressing whether appellant continued to have residuals of her accepted employment injury, his opinion constitutes the weight of the medical evidence.⁷

Appellant submitted several reports from Dr. Varnell, dated from June 5, 2007 to April 28, 2008, who noted that appellant presented to him with issues related to anxiety and depression. Dr. Varnell's reports are insufficient to establish that appellant continued to have residuals of her employment-related condition. The Board notes that Dr. Varnell did not provide any opinion that her condition was causally related to factors of her employment. He advised that appellant's anxiety attacks and flashbacks were triggered by matters related to being sexually harassed by a superior and the treatment she received after she reported the harassment; however, these were not accepted as factors of employment based on her 2003 claim. The factors accepted by the Office included the time appellant opened the employing establishment and forgetting to dispatch the mail and deposits. Dr. Varnell also noted there were several stress factors in appellant's life which included, the death of a friend, erratic spending, marital issues related to her husband and health issues concerning her son-in-law and her mother. The Board notes that Dr. Varnell did not identify any of the established factors of appellant's employment nor did he offer any opinion as to the cause other than to note that her flashbacks were triggered to factors above which were not established as work related. Medical evidence, which does not offer any opinion regarding the cause of an employee's condition, is of limited probative value

⁷ *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

on the issue of causal relationship.⁸ Thus, these reports do not establish a continuing employment-related condition.

Appellant also submitted a July 24, 2006 report from Dr. Robert L. Johnson, who noted that he was unable to confirm or deny any of the allegations made in the past by appellant, who harkened back to the multiple stressors she had endured. He advised that appellant related that she loved her job and her life was in fact centered around working at the employing establishment. Dr. Johnson diagnosed major depressive disorder, recurrent, generalized anxiety disorder involving components of post-traumatic stress disorder and a relational problem not otherwise specified. However, the Board notes that this report does not specifically address whether any factors of appellant's employment caused her diagnosed condition.⁹ Consequently, the Board finds that this evidence is insufficient to establish appellant's claim.

An October 10, 2008 report from Dr. Robert A. Johnson, diagnosed anxiety and dysthymic disorder, which predated 2003. He noted that appellant had severe hypervigilant insomnia, preceded in late 2003 by acute stress disorder. Dr. Johnson advised that appellant was post-traumatic stress disorder, secondary to a rape in 1998, but that those symptoms were no longer present. He also diagnosed obsessive-compulsive personality disorder, moderately severe. Dr. Johnson opined that her personality disorder, which had its strengths in careful work habits, perfectionism, as well as the rape of 1998, each contributed to the severity of the psychological harm of the workplace trauma of 2003. The Board notes that, while Dr. Johnson referred to a work trauma of 2003, he did not identify any accepted work factors. Dr. Johnson did not offer any reasoned opinion supporting how particular accepted work factors caused total disability. The Board has long held that medical opinions not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet appellant's burden of proof.¹⁰ Thus, this report does not establish a continuing employment-related condition.

While Dr. Vega-Bonilla indicated that appellant was unable to work and that her condition was work related, he did not support that specific accepted work factors were the cause of a continuing condition or disability after December 23, 2003. Instead, he noted nonwork stressors such as sexual coercion in 1999 and advised that appellant had a chronic history of depression that had lasted longer than two years. Other medical reports of record do not provide reasoned support that appellant had continued residuals or disability of her accepted condition after December 23, 2003.

The Board finds that the weight of the medical evidence establishes that the accepted aggravation of appellant's condition resolved no later than December 23, 2003. The Office's decision to terminate her compensation effective October 1, 2008 will be affirmed.

⁸ *Michael E. Smith*, 50 ECAB 313 (1999).

⁹ *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

¹⁰ *Carolyn F. Allen*, 47 ECAB 240 (1995).

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's compensation as of October 1, 2008.

ORDER

IT IS HEREBY ORDERED THAT the April 20, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 6, 2010
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