

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

C.R., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,
Barberton, OH, Employer

)
)
)
)
)
)
)
)
)
)
)

**Docket No. 12-1330
Issued: January 28, 2013**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 6, 2012 appellant filed a timely appeal from an April 2, 2012 decision of the Office of Workers' Compensation Programs (OWCP) that denied her claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained an emotional condition causally related to the accepted employment factor.

On appeal, appellant asserts that her condition is employment related and challenges the opinion of OWCP's referral physician.

¹ 5 U.S.C. §§ 8101-8193.

FACTUAL HISTORY

This claim has previously been before the Board. In a May 20, 2011 decision, the Board found that appellant did not establish that events on March 13, 2009 were compensable factors of employment and that she did not establish that her route was improperly monitored or that she was harassed by the postmaster.² The Board, however, found that she established a compensable factor as she experienced stress in trying to accomplish her regular and specifically assigned work duties as a letter carrier.³ The law and facts of the previous Board decision are incorporated herein by reference.

Subsequent to the Board's May 20, 2011 decision, by letter dated June 17, 2011 OWCP noted that the last medical report was dated November 12, 2009 and asked that appellant provide updated medical information. OWCP also referred appellant to Dr. Mark E. Reynolds, a Board-certified psychiatrist, for a second-opinion evaluation.

In a June 23, 2011 report, David Aronson, Ph.D., a clinical psychologist, advised that he had received a telephone message. He indicated that he held his last therapy session with appellant on "November 3, 2011" and that on November 12, 2009 she informed him that she was doing better and had to discontinue treatment due to distance and cost. Dr. Aronson indicated that her case was closed at that time by mutual agreement.

In a July 2, 2011 letter, appellant stated that she had been performing volunteer work since October 2010 with a nursing home, an animal shelter, a food bank and at her church. She indicated that she had to have rotator cuff surgery on July 5, 2011.

In a July 12, 2011 report, Dr. Reynolds noted his review of the statement of accepted facts, which described the accepted factor of employment and the medical record. He described appellant's report of events at the employing establishment and her symptoms of continued stress including decreased energy, interests, appetite and self-esteem, lack of motivation, impaired concentration and increased guilt and need for sleep but that these had decreased over time. The physician performed mental status examination and diagnosed mood disorder, not otherwise specified; alcohol abuse, resolved per report; pending right rotator cuff surgery; occupational difficulty; and a global assessment of function of 60. In answer to specific OWCP questions, Dr. Reynolds advised that appellant had no condition attributable to the accepted employment factor, including the diagnosed mood disorder and no condition which precluded her from working. In a supplementary report dated August 26, 2011, the physician explicitly stated that completing a regular workday assignment did not accelerate, aggravate or precipitate appellant's mood disorder and that she did not meet the criteria for a diagnosis of PTSD.

Additional medical evidence relevant to the claimed condition includes a March 14, 2009 report in which a Dr. Deckert⁴ advised that appellant was released to return to work on Monday

² Docket No. 10-1942 (issued May 20, 2011). On appeal, appellant also reference an incident when she witnessed an employee's death. This is apparently a December 2008 incident that was discussed in the Board's May 20, 2011 decision, which noted that she advised that she did not think this event caused her claimed condition.

³ Appellant, a letter carrier, filed an occupational disease claim for depression and post-traumatic stress disorder (PTSD) on April 1, 2009. She stopped work on March 14, 2009 and did not return.

⁴ The physician is not further identified.

March 23, 2009. On March 24, 2009 Dr. Aronson noted that appellant had recently been hospitalized in a psychiatric unit. He described her report that she was placed on light duty due to carpal tunnel syndrome and did fine until a new supervisor began harassing her by giving her a longer route and making disparaging remarks. Dr. Aronson noted appellant's symptoms of crying spells, feelings of helplessness, sleeplessness with bad dreams and difficulties in focus and concentrating. He diagnosed PTSD and major depression and advised that she could not work due to the severity of the symptoms which were a result of stress from her supervisor. On an April 13, 2009 family and medical leave act application, Dr. Aronson advised that appellant could not focus or concentrate and was unable to work through December 31, 2009. On April 28, 2009 he informed the employing establishment that she was unable to work due to her depression and PTSD. On May 12, 2009 Dr. Aronson reiterated his diagnoses and opinion that appellant could not work in any environment and that, once the conditions were controlled, she should be reassigned to a less stressful location under a different supervisor. He provided weekly treatment notes from March 24 to November 3, 2009 in which he described her history, condition and treatment and was consistent in his opinion that she could not work. Dr. Aronson indicated that appellant had a past history of obsessive compulsive disorder (OCD) and also reported problems with family members and that her husband was injured and hospitalized in October 2009. During much of the period she was living at a second home (cabin) and helping her husband with his construction business. On October 20, 2009 Dr. Aronson advised that appellant was permanently disabled from work as a postal worker, indicating that a return to work there would cause her PTSD to worsen. Appellant's condition worsened in October 2009 and Dr. Aronson recommended psychiatric treatment. On November 3, 2009 he reported that she had been drinking more alcohol, opining "I think that drinking plays a strong role in her deterioration or is an indication that she is starting to deteriorate." On November 12, 2009 appellant informed Dr. Aronson that she wanted to discontinue treatment due to the expense.

By decision dated September 16, 2011, OWCP denied appellant's claim that she sustained an emotional condition causally related to the accepted employment factor of experiencing stress in trying to complete regularly assigned duties. On September 26, 2011 appellant, through her attorney, timely requested a hearing that was held on January 11, 2012. At the hearing she testified that she had a breakdown and began seeing Dr. Aronson but no longer saw him or any therapist and was no longer taking any medication. Appellant indicated that her attorney had recommended that she return to see Dr. Aronson, but she did not and that she had retired on disability.

In an April 2, 2012 decision, an OWCP hearing representative affirmed the September 16, 2011 decision.

LEGAL PRECEDENT

To establish her claim that she sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that she has an emotional or stress-related 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 stress-related condition.⁵ If a claimant does implicate a factor of employment,

⁵ *Leslie C. Moore*, 52 ECAB 132 (2000).

OWCP should then determine whether the evidence of record substantiates that factor.⁶ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, OWCP must base its decision on an analysis of the medical evidence.⁷

ANALYSIS

Because appellant has established a compensable factor of employment, that she experienced stress in trying to accomplish her regular and specifically assigned work duties as a letter carrier, the medical evidence of record must be analyzed.⁸

Appellant stopped work in March 2009. While she asserted that she was hospitalized due to employment-related stress at that time, the record does not contain information regarding this hospitalization. The earliest medical report is that dated March 14, 2009 from Dr. Deckert who advised that she was released to return to work on Monday, March 23, 2009. Appellant thereafter came under the care of Dr. Aronson, a psychologist, who treated her from March to November 2009. During that period he diagnosed PTSD and major depression and advised that she could not work due to the severity of her symptoms. While Dr. Aronson generally advised that appellant's condition was a result of stress from her supervisor, he did not relate her condition to the accepted employment factor and noted additional problems during the period of his treatment including appellant's OCD diagnosis, her drinking and problems with family members. Moreover, in November 2009, appellant discontinued care with Dr. Aronson and she testified at the hearing that she was no longer being treated for any emotional condition. Even though her former attorney recommended that she be seen again by Dr. Aronson, she chose not to. As Dr. Aronson failed to address the compensable factor of employment and seemed to solely rely on appellant's self-report of the work environment, his opinion is insufficient to meet appellant's burden.⁹

Dr. Reynolds, an OWCP referral physician, provided reports dated July 12 and August 26, 2011 in which he diagnosed mood disorder and advised that appellant did not meet the criteria for a diagnosis of PTSD. He found that her work assignments did not accelerate, aggravate or precipitate the diagnosed mood disorder.

Appellant has the burden of proof to establish that the conditions for which she claims compensation were caused or adversely affected by her federal employment.¹⁰ Part of this burden includes the necessity of presenting rationalized medical evidence, based on a complete factual and medical background, establishing a causal relationship. An award of compensation may not be based upon surmise, conjecture or upon appellant's belief that there is a relationship between her medical conditions and her employment. The Board finds that she has not

⁶ *Dennis J. Balogh*, 52 ECAB 232 (2001).

⁷ *Id.*

⁸ *Id.*

⁹ *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

¹⁰ *See Calvin E. King*, 51 ECAB 394 (2000).

submitted sufficient probative medical evidence to establish that her emotional condition was caused by the compensable factor of employment. Appellant therefore failed to discharge her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an employment-related emotional condition causally related to the accepted employment factor.

ORDER

IT IS HEREBY ORDERED THAT the April 2, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 28, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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