

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

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**L.C., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
San Diego, CA, Employer**

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**Docket No. 12-1949  
Issued: January 3, 2013**

*Appearances:*  
*Sally F. LaMacchia, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
PATRICIA HOWARD FITZGERALD, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On September 24, 2012 appellant, through her attorney, filed a timely appeal from an August 23, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her emotional condition claim. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 sustained an emotional condition in the performance of duty causally related to factors of her federal employment.

**FACTUAL HISTORY**

This case has previously been before the Board. In a decision dated March 8, 2004, the Board set aside a May 17, 2002 decision denying appellant's request to reopen her case for

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

further review of the merits.<sup>2</sup> By decision dated April 2, 2009, the Board affirmed as modified an April 30, 2008 decision denying her emotional condition claim.<sup>3</sup> The Board found that appellant's stress while performing her duties as a window clerk constituted a compensable employment factor. It noted that she experienced difficulty working the machines at the window and had to ask coworkers for assistance. The Board further determined, however, that appellant had not established harassment or discrimination by her supervisor or that management erred in denying her leave requests or failing to provide her with training. The Board concluded that the medical evidence was insufficient to show that she sustained an emotional condition due to the compensable work factor. By decision dated July 21, 2011, the Board set aside a March 25, 2010 decision finding that appellant had not established an emotional condition claim causally related to factors of her federal employment.<sup>4</sup> The Board found that she had submitted sufficient medical evidence supporting that she sustained an emotional condition performing work as a window clerk to warrant further development. The Board instructed OWCP to refer appellant for a second opinion examination to determine whether she sustained an emotional condition due to a compensable factor of employment. The facts and circumstances of the case as set forth in the Board's prior decisions are hereby incorporated by reference.

On November 1, 2011 OWCP referred appellant, together with the case record and a statement of accepted facts (SOAF) to Dr. E. Richard Dorsey, a Board-certified psychiatrist, for a second opinion examination. It provided a narrative SOAF that described in detail appellant's job duties on pages one through three.

On December 7, 2011 Dr. Dorsey discussed appellant's complaints of stress which she attributed to working the window without adequate training, the need to ask for assistance, being responsible for any shortages of money while working the window, denials of requests for time off and assessments of her performance. Dr. Dorsey noted that the SOAF was "unusual in being very long and narrative, rather than a relatively brief list of specific actual or claimed occupational events." He reviewed the medical evidence of record and the results of psychological testing performed at his request. Dr. Dorsey diagnosed generalized anxiety disorder, depressive disorder not otherwise specified, panic disorder with agoraphobia and obsessive-compulsive personality traits. He explained how appellant's symptoms supported the diagnosed conditions and stated:

"The objectively-minor stressors at work listed in the SOAF as 'factors of employment' interacted with her obsessive-compulsive personality traits to cause the mental symptoms listed above. The other factual events, including dislike of her assignment to the window and the dispute over her annual leave were aggravated factors.

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<sup>2</sup> Docket No. 03-1387 (issued Marcy 8, 2004).

<sup>3</sup> Docket No. 08-1655 (issued April 2, 2009). On December 29, 1998 appellant, then a 39-year-old clerk, filed an occupational disease claim alleging that she sustained anxiety arising from her supervisor's harassment and discrimination, the denial of leave, receipt of a letter of warning and working as a window clerk.

<sup>4</sup> Docket No. 10-2271 (issued July 21, 2011).

“She has temporary (not permanent) total disability for her job as a ‘vacation relief clerk’ for [the employing establishment] especially if the duties include working at the window.”

Dr. Dorsey recommended psychiatric treatment.

On March 1, 2012 OWCP requested that Dr. Dorsey more specifically address causation and the minor stressors that interacted with appellant’s compulsive personality. In a March 8, 2012 response, Dr. Dorsey related:

“The condition is not ‘self-generated’ in that, in the absence of the occupational stressors accepted by OWCP as listed in my report on page 2 and in the SOAF on October 5, 2011 on page 1, [appellant] would not have developed the mental symptoms complained of at the time she did....

“Stated somewhat differently, the ‘objectively minor’ stressors as set forth above and accepted by the OWCP constitute the ‘proximate cause’ of her current mental symptoms, which did not exist prior to her encountering these stressors, developed at the time of and in response to the stressors, and have persisted thereafter in the absence of any other significant contemporaneous nonoccupational stressors.

“The best orthopedic analogy to psychiatric cases like this is the woman with severe osteoporosis who is asymptomatic until sustaining a minor fall at work, which results in multiple fractures. In the absence of the fall, she would not have developed the fractures of the related pain and disability. On the other hand, if not for her osteoporosis, the fall would not likely have resulted in significant physical injuries or symptoms.”

By decision dated August 23, 2012, OWCP denied modification of its September 8, 2009 decision. It found that Dr. Dorsey did not identify any compensable work factor as causing appellant’s emotional condition.

On appeal, appellant’s attorney argues that Dr. Dorsey’s opinion establishes that appellant has an emotional condition arising from compensable factors of employment. She notes that he described appellant’s embarrassment trying to work machines. Counsel requests that the Board reverse OWCP’s decision.

### **LEGAL PRECEDENT**

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 an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers’ compensation. Where the disability results from an employee’s emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.<sup>5</sup> On the other hand, the

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<sup>5</sup> 5 U.S.C. § 8101 *et seq.*; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his or her frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>6</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.<sup>7</sup> If a claimant does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor. 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.<sup>8</sup>

Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>9</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>10</sup> must be one of reasonable medical certainty<sup>11</sup> explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>12</sup>

In *Beth P. Chaput*,<sup>13</sup> the Board set aside and remanded the case to OWCP stating, "it is not necessary to provide a significant contribution of factors of employment to a condition for the purpose of establishing causal relationship. If the medical evidence revealed that [a work factor] contributed in any way to [the employee's] condition, such condition would be considered employment related for the purpose of compensation benefits under [FECA]."<sup>14</sup>

### ANALYSIS

The Board found in its July 21, 2011 decision that appellant's stress performing her duties as a window clerk, including working the machines and asking coworkers for assistance, constituted a compensable employment factor. The Board further determined, in its July 21,

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<sup>6</sup> *Gregorio E. Conde*, 52 ECAB 410 (2001).

<sup>7</sup> *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>8</sup> *Id.*

<sup>9</sup> *John J. Montoya*, 54 ECAB 306 (2003).

<sup>10</sup> *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>11</sup> *John W. Montoya*, *supra* note 9.

<sup>12</sup> *Judy C. Rogers*, 54 ECAB 693 (2003).

<sup>13</sup> 37 ECAB 158 (1985).

<sup>14</sup> *See also Glenn C. Chasteen*, 42 ECAB 493 (1991); *Arnold Gustafson*, 41 ECAB 131 (1989).

2011 decision, that she had submitted sufficient medical evidence to warrant further development and instructed OWCP to refer her for a second opinion examination.

OWCP referred appellant to Dr. Dorsey for evaluation of her emotional condition. The Board finds that Dr. Dorsey's opinion is sufficient to establish that compensation work factors contributed, at least in part, to the diagnosed conditions of generalized anxiety disorder, panic disorder with agoraphobia and depressive disorder not otherwise specified. In a report dated December 7, 2011, Dr. Dorsey noted that appellant complained of stress when she had to work the window and disliked asking for assistance. He further discussed her stress due to noncompensable work factors, including inadequate training, denials of leave and performance assessments. Dr. Dorsey related that the factors of employment set forth in the SOAF combined with her obsessive-compulsive personality to cause her symptoms and noted that aggravating factors were her dislike of working the window and leave matters. In a supplemental report dated March 8, 2012, he attributed appellant's condition to occupational stressors set forth on page one of the SOAF and on page two of his report. Dr. Dorsey explained that the relatively minor work stress combined with her personality to cause her emotional condition and disability.

Board precedent provides that it is not necessary to provide a significant contribution of factors of employment to establish causal relationship. If the medical evidence revealed that a work factor contributed in any way to appellant's condition, such condition is employment related.<sup>15</sup> Dr. Dorsey provided a clear opinion that accepted employment factors contributed to the diagnosed emotional conditions. He opined that the factors of employment set forth in the SOAF on page one, which included a description of appellant's work duties as well as the factors listed on page two of his report, which included a discussion of her stress due to working the window and asking for assistance, contributed to her emotional condition. Dr. Dorsey's opinion is well rationalized and based on a proper factual and medical background. Consequently, it represents the weight of the evidence and establishes that the diagnosed conditions of generalized anxiety disorder, panic disorder with agoraphobia and depressive disorder are work related. The medical evidence, however, does not contain a clear finding regarding any periods of disability related to these accepted conditions.

The case will be remanded to OWCP for further development of this matter. After such development as deemed necessary, it shall issue an appropriate decision.

### **CONCLUSION**

The Board finds that appellant sustained an emotional condition in the performance of duty causally related to factors of her federal employment. The case is remanded to OWCP to determine any periods of disability due to the accepted condition.

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<sup>15</sup> See *R.L.*, Docket No. 11-115 (issued June 14, 2011).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 23, 2012 decision of the Office of Workers' Compensation Programs is reversed.

Issued: January 3, 2013  
Washington, DC

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

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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