

departing aircraft. Appellant's claim was accepted for a right wrist sprain and was later expanded to include the acceptance of post-traumatic stress disorder (PTSD).

On December 14, 2011 appellant filed an occupational disease claim, stating that his PTSD condition was aggravated by a new work incident. He alleged that on February 15, 2011 while he was working in the same location where he sustained his May 18, 2010 injury, he saw a plane headed toward the runway where he was working, and that he began experiencing flashbacks and had to abandon the area. Appellant also states that, after the incident, his anxiety attacks he had been experiencing since the May 18, 2010 incident worsened, and made him unable to concentrate on the alignment procedures. He also stated that his psychologist diagnosed his condition as PTSD on March 17, 2011, when he learned for the first time that the condition he had been suffering from was anxiety attacks.

In a report dated April 20, 2011, Dr. Todd M. Antin, a Board-certified psychiatrist, related the history of the May 18, 2010 event. He thereafter explained that appellant had stopped work entirely on March 18, 2011 because he felt unsafe at work.

By letter dated January 17, 2012, OWCP advised appellant that the evidence of record was not sufficient to establish that the incident occurred as alleged. It requested that he submit additional factual and medical evidence to the record, in support of his claim.

In a February 14, 2012 letter, the employing establishment controverted appellant's claim. The letter confirmed that the February 15, 2011 incident had in fact occurred, but noted that appellant had not reported the incident, nor had he reported his subsequent anxiety attacks and his inability to perform his job duties to his manager until March 18, 2011.

On February 22, 2012 OWCP received a September 19, 2011 letter from Dr. Antin wherein he related that, following the May 18, 2010 incident, appellant did not return to the airfield until February 25, 2011. Dr. Antin stated that the trigger that caused appellant's symptoms to emerge was an inability to repair a piece of equipment before the airport turnaround occurred, which would bring aircraft near his workstation.

Appellant also submitted a February 7, 2012 report from Dr. Antin. In this report he noted appellant's initial May 18, 2010 injury as well as his surgical history, and stated the following:

"As I have stated in previous reports, I believe [appellant] suffers from PTSD due to a traumatic injury at work on May 18, 2010. It is true that [appellant] initially went back to work after this event and attempted to overcome his psychological setbacks before he became completely unable to work and temporarily totally disabled on or after February 15, 2011. In my opinion, this second traumatizing event served to unearth symptoms that began their formation at the time of the initial etiologic trauma on May 18, 2010.

"Following the May 18, 2010 incident [appellant] did not return to the flight line/airfield until February 15, 2011 due ... [to] training.... The trigger that caused [appellant's] PTSD symptoms to emerge in an overwhelming fashion was due to an inability to repair a malfunctioning piece of equipment before an airport

turn-around occurred which meant aircraft would be landing and taking off in direct proximity of where he was standing.

“As a point of understanding, PTSD is a psychiatric disorder that can often lay dormant until a stressor of sufficient magnitude is experienced that can reactivate earlier traumas. As this relates to [appellant], I continue to opine that his initial traumatic experience on May 18, 2010 was further worsened by further exposure to dangerous work conditions on follow[-]up treatment, review of available medical records, my education, training, experience and upon reasonable medical certainty, the PTSD set forth in my diagnosis and findings arose out of an[d] in the course of the employee’s employment and that said employment as an ATTS and work duties required on February 15, 2011 contributed to an aggravation to [appellant’s] now preexisting PTSD condition that has been TTD since February 15, 2011. Currently, he is eligible to return to work when his employer can find a modified position for him based on the limitations and restrictions I have set.”

In a February 15, 2012 letter to OWCP, appellant’s representative stated that on February 25, 2011 appellant was attempting to repair a malfunctioning piece of equipment on the airfield, as the time grew closer to the airport turn around event, appellant experienced increasing anxiety that led to PTSD.

On February 22, 2012 OWCP received a September 8, 2011 letter from the employing establishment, to appellant, stating that Dr. Antin had indicated that appellant could return to work with restrictions, but that there was no productive duties, commensurate with the medical restrictions, available at the current time. Therefore the employing establishment would be unable to accommodate appellant.

In an April 3, 2012 decision, OWCP denied appellant’s claim on the grounds that he had not established that he sustained an injury on March 17, 2011, because his statement along with the medical record related appellant’s condition to an incident which occurred on February 15, 2011. It therefore concluded that he had not established that the incident occurred in the performance of duty.

Appellant disagreed with the decision and requested reconsideration on April 30, 2012. He noted that he had another claim for a March 18, 2011 injury, under claim number xxxxxx308. Appellant explained that he had experienced psychiatric problems prior to March 17, 2011. He resubmitted statements and medical reports. On May 3, 2012 OWCP received a notice of proposed suspension, dated May 11, 2011, which detailed alleged careless work actions as of February 24, 2011.

By decision dated July 2, 2012, OWCP again denied appellant’s claim on the grounds that there was no evidence that any injury or event occurred on February 15, 2011.

Appellant again requested reconsideration. In a letter dated July 19, 2012, appellant’s representative related that appellant had very little exposure to the airfield from August 2010 due to out-of-town training demands. The trigger that caused appellant’s PTSD symptoms to emerge

in an overwhelming fashion occurred on February 15, 2011. Appellant was attempting to repair malfunctioning equipment when he experienced increasing anxiety as the time for the aircraft turnaround neared.

On September 14, 2012 OWCP denied modification of the prior decision.

LEGAL PRECEDENT

To establish a claim that he or she sustained an emotional or stress-related condition in the performance of duty, an employee must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the condition; (2) medical evidence establishing that he or she has an emotional or stress-related disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the condition. If a claimant implicates a factor of employment, OWCP should determine whether the evidence of record substantiates that factor. Allegations alone are insufficient to establish a factual basis for an emotional condition claim and must be supported with probative and reliable evidence. If a compensable factor of employment is established, OWCP must then base its decision on an analysis of the medical evidence.²

The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.³

ANALYSIS

The Board notes that appellant's claim should have been processed as a traumatic injury claim⁴ and that appellant's claimed date of injury is February 15, 2011.⁵

While OWCP denied appellant's claim on the grounds that he had not established an incident or injury on February 15, 2011, the Board finds that he has established that he was performing his regular duties, maintaining aircraft on the airfield on February 15, 2011. In his statement, appellant alleges that while he was repairing machinery on the airfield on February 15, 2011 and the time neared for the aircraft turn-around, he experienced flashbacks and anxiety attacks because he was injured previously in a similar work situation on

² *G.S.*, Docket No. 09-764 (issued December 18, 2009).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ 20 C.F.R. § 10.5(15), (16) defines a traumatic injury as a wound or other injury caused by a specific event or incident within a single workday or shift, whereas an occupational injury is defined as a condition produced in the work environment over a period longer than a single workday or shift. As appellant's exposure occurred only during one work shift, it is being treated as a condition arising from a traumatic work incident within a single day. *See J.G.*, Docket No. 07-2371 (issued April 8, 2008).

⁵ While one of Dr. Antin's reports and a letter from appellant's representative related the date as February 25, 2011, it appears that these were typographical errors as the other evidence of record substantiates that the alleged incident occurred on February 15, 2011.

May 18, 2010. While his manager asserts that appellant did not report his alleged injury until March 18, 2011, after he had visited a psychiatrist; based upon the employing establishment's February 14, 2012 letter, it remains uncontroverted that appellant was performing machinery maintenance out on the airfield, as the time for the aircraft turn-around approached on February 15, 2011. As such, the Board finds that appellant was performing his regular assigned duties on February 15, 2011, in the manner he described.

The Board finds however that appellant has not established that he sustained an injury on February 15, 2011, due to a compensable factor of employment. In support of his claim, appellant submitted several reports from his psychiatrist, Dr. Antin who provided his most comprehensive summary of appellant's claim in his February 7, 2012 report. Dr. Antin gave a complete account of appellant's prior injury of May 18, 2010, and a sufficiently detailed description of the factual background of the February 15, 2011 incident. He thereafter opined that appellant's preexisting PTSD condition was aggravated by the February 15, 2011 work incident. Dr. Antin stated that the trigger that caused appellant's PTSD symptoms to emerge in an overwhelming fashion was due to an inability to repair a malfunctioning piece of equipment before an airport turn-around occurred which meant aircraft would be landing and taking off in direct proximity of where he was standing. He rationalized this conclusion by stating that PTSD is a psychiatric disorder that often lies dormant until a stressor of sufficient magnitude is experienced that can reactivate earlier traumas, and that by being exposed to dangerous work conditions on February 15, 2011 incident, appellant's initial traumatic experience on May 18, 2010 was worsened.

The Board finds that Dr. Antin has not related appellant's disability to the performance of his regular work duties on February 15, 2011, but rather to his anticipation that the airport turn-around would occur, which would place him in the same danger he experienced on May 1, 2010. The fear of being placed in what appellant perceived to be a dangerous environment, under these circumstances, is essentially a fear of future injury. The Board has explained that the fear of future injury is not a compensable factor of employment. This is true even if the employee is found to be medically disqualified to continue in the employment because of the effect which anticipated employment factors might have on the underlying condition. The fear that one might sustain further injury is self-generated and not a compensable factor of employment.⁶

As Dr. Antin did not relate appellant's diagnosed conditions to the actual performance of his employment duties, but rather to his fear that the airport turn-around would occur and he would be placed in a dangerous situation. He has not supported a finding that appellant's emotional condition occurred in the performance of duty on February 15, 2011.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an emotional condition while in the performance of duty on February 15, 2011.

⁶ *Joseph G. Cutrufello*, 46 ECAB 285 (1994); *see also D.T.*, Docket No. 12-1534 (issued April 10, 2013).

ORDER

IT IS HEREBY ORDERED THAT the September 14, 2012 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: June 19, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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