

FACTUAL HISTORY

On March 23, 2016 appellant, then a 55-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on March 20, 2016 he sustained soreness in his neck and back as a result of a coworker shoving him very hard twice. He stopped work on March 23, 2016, returned to light-duty work on April 12, 2016 and full duty on April 14, 2016.³ OWCP accepted his claim for cervical spine sprain.

In a March 21, 2016 memorandum to the complex warden, appellant described that on March 20, 2016 at approximately 12:00 a.m. he went to the parking lot at the end of his shift when Officer T.F. jumped out of his own truck and approached appellant in a fast, aggressive manner. He related that Officer T.F. began pushing him and told him several times, in a threatening manner: “your day is coming very soon.” Appellant indicated that he grabbed Officer T.F.’s hands in defense and tried to talk to him, but Officer T.F. started to curse at him and call him names. He related that, after several minutes of verbal abuse, Officer T.F. turned away and walked off to his truck. Appellant alleged that he was in fear of his life from Officer T.F. He noted that Officer T.F. was working in the mobile patrol, which was an armed post. Appellant explained that he was uneasy about reporting to work because he had to cross the perimeter daily to report to his assigned post. He submitted a March 22, 2016 police incident report by Investigator D.B. regarding a disturbance at the federal detention center between appellant and Officer T.F.

OWCP received various reports from Dr. Thomas Davis, Jr., a Board-certified family practitioner. In progress notes dated April 14 and June 10, 2016, Dr. Davis related appellant’s complaints of continued neck and back pain, which appellant believed might be from stress at work. He described the March 20, 2016 work incident and indicated that appellant felt that he could return to full duty. Upon physical examination of appellant’s neck, Dr. Davis reported tenderness over the paracervical muscles and pain upon palpitation of appellant’s neck. He noted improved range of motion, but increased pain with cervical extension and right rotation. Examination of appellant’s back revealed nontenderness over the right and no pain upon palpitation. Dr. Davis diagnosed neck strain, lumbar sprain, and contracture of the muscle at multiple sites.

In an April 14, 2016 prescription note, Dr. Davis indicated that appellant could return to regular duty with no restrictions on April 14, 2016.

Appellant provided a June 10, 2016 statement in which he indicated that on June 9, 2016 he became aware that Officer T.F. was going to work the mobile post on June 12, 2016. Appellant asserted that because of the death threats from Officer T.F. that occurred on March 20, 2016, he did not feel safe to return to work with Officer T.F. working an armed post.

Dr. Davis continued to treat appellant. In a June 22, 2016 progress note, he indicated that appellant complained of anxiety due to working with someone who had threatened his life. Appellant related that he could not bring himself to go to work when he knew the specific coworker was working and was armed, so he had been calling in sick. He indicated that his neck

³ On March 24, 2016 the employing establishment issued an authorization for medical treatment (Form CA-16).

and back pain had improved overall, but he now suffered from some “serious mental issues.” Upon physical examination of appellant’s neck, Dr. Davis reported tenderness over the right paracervical muscles, pain upon palpitation, and resolved spasms. Examination of appellant’s back revealed no tenderness and no pain. Dr. Davis diagnosed unspecified nonpsychotic mental disorder, neck strain, lumbar sprain, and contracture of muscle, multiple sites. He noted that appellant could continue working full duty.

Appellant received treatment from Dr. Kenneth Binns, a clinical psychologist. In a July 3, 2016 psychological evaluation, Dr. Binns described that on March 20, 2016 appellant was assaulted, pushed, and threatened by a coworker at work. He reported that the coworker now had access to firearms and appellant was fearful for his safety while working at the employing establishment. Dr. Binns recommended changes in work schedules to prevent any interaction between these coworkers. He diagnosed depressive disorder and post-traumatic stress disorder.

According to telephone memorandum calls (Form CA-110) dated July 18 and 20, 2016, OWCP advised appellant to submit a new claim for ongoing incidents of stress along with a statement and medical documentation to support his claim of stress.

Dr. Davis continued to treat appellant. In progress notes dated July 8 and August 5, 2016, he related appellant’s continued complaints of neck and back pain following the March 20, 2016 employment incident. Appellant indicated that he had a mental evaluation through the Employee Assistance Program and was told that he had mental damage that was causing physical damage. Dr. Davis reviewed appellant’s history and reported no changes in physical examination findings of appellant’s neck and back. He diagnosed nonpsychotic mental disorder, unspecified, neck muscle strain, lumbar sprain, and contracture of muscle, multiple sites.

In an August 30, 2016 progress note, Dr. Davis indicated that appellant complained of less pain in his cervical spine, but occasional cramping in his right arm. He described the March 20, 2016 employment incident and indicated that appellant currently worked two days per week when Officer T.F. was not at work. Dr. Davis reviewed appellant’s history and noted no change in physical examination of appellant’s neck and back. He diagnosed nonpsychotic mental disorder, unspecified, muscle strain, lumbar sprain, and contracture of muscle, multiple sites.

Appellant received treatment from Dr. James W. Quillin, a clinical psychologist. In a September 26, 2016 prescription note, Dr. Quillin related that appellant was to be on no work status until November 1, 2016.

On October 3, 2016 appellant filed a claim for wage-loss compensation (Form CA-7) for the period September 26 to November 1, 2016.

In an October 3, 2016 progress note, Dr. Davis related that appellant was seen by Dr. Quillin on September 26, 2016 and taken off work until November 1, 2016. Appellant reported improved neck and back pain since being taken off work. Dr. Davis reported no changes in physical examination findings of appellant’s neck and lumbar spine. He diagnosed nonpsychotic mental disorder, unspecified, neck strain, lumbar sprain, and contracture of muscle, multiple sites.

By letter dated October 14, 2016, OWCP informed appellant that it received his claim for wage-loss compensation for the period September 26 through November 1, 2016. It requested additional evidence to establish that appellant was unable to work during the claimed period as a result of his March 20, 2016 employment injury. Appellant was afforded 30 days to provide the requested information.

Appellant submitted additional prescription notes by Dr. Quillin. In an October 27, 2016 note, Dr. Quillin reported that appellant was not to return to work until November 14, 2016. In a November 10, 2016 prescription note, he indicated that appellant was on “no work status until January 15, 2017 due to PTSD.”

In a November 1, 2016 progress note, Dr. Davis indicated that appellant continued to be off work per Dr. Quillin’s recommendation and felt better overall. He reported no changes in physical examination findings of appellant’s back and neck. Dr. Davis diagnosed nonpsychotic mental disorder, unspecified, neck muscle strain, lumbar sprain, and contracture of muscle, multiple sites.

On November 25, 2016 appellant submitted another claim for wage-loss compensation (Form CA-7) for the period November 2 to 26, 2016.

In a December 9, 2016 progress note, Dr. Davis related that appellant remained off work and indicated that he was doing better since being off work. He accurately described the March 20, 2016 employment incident and conducted an examination. Dr. Davis reported no change in tenderness of appellant’s neck and some pain reproduced with palpitation. He noted some restriction in range of motion, especially extension and right rotation. Examination of appellant’s back demonstrated nontenderness on the right and no pain upon palpitation. Dr. Davis diagnosed nonpsychotic mental disorder, unspecified, neck strain, lumbar sprain, and contracture of muscle, multiple sites.

By decision dated January 4, 2017, OWCP denied appellant’s claim for wage-loss compensation benefits beginning September 26, 2016. It found that the medical evidence of record failed to establish that appellant was disabled from work or entitled to wage-loss compensation during the claimed period as a result of his March 20, 2016 work injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ The term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of the injury.⁶

⁴ *Supra* note 1.

⁵ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ 20 C.F.R. § 10.5(f); *see, e.g., Cheryl L. Decavitch*, 50 ECAB 397 (1999).

Whether a particular injury causes an employee to be disabled from employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative, and substantial medical evidence.⁷ Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work.⁸ When the physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that he or she hurt too much to work, without objective findings or disability being shown, the physician has not presented a medical opinion, supported by medical rationale, on the issue of disability or a basis for payment of compensation.⁹

The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹⁰

ANALYSIS

OWCP accepted that appellant sustained a cervical sprain as a result of a March 20, 2016 employment injury. Appellant stopped work on March 23, 2016 and returned to full duty on April 14, 2016. He filed claims for wage-loss compensation for total disability beginning September 26, 2016. In a decision dated January 4, 2017, OWCP denied appellant's claim for wage-loss compensation beginning September 26, 2016, finding that the medical evidence of record was insufficient to establish that he was unable to work due to his accepted injury.

The Board finds that appellant has failed to establish total disability beginning September 26, 2016 due to his accepted March 20, 2016 employment injury.

During appellant's alleged period of disability, he received medical treatment from Dr. Davis. In progress notes dated October 3 to December 9, 2016, Dr. Davis described the March 20, 2016 employment incident and provided findings on examination. He diagnosed nonpsychotic mental disorder, unspecified, neck strain, lumbar sprain, and contracture of muscle, multiple sites. Dr. Davis indicated that appellant was seen by Dr. Quillin and had been taken off work until November 1, 2016. Although he indicated that appellant should remain off work until November 1, 2016, he did not provide any medical explanation for why appellant's March 20, 2016 employment injury caused any period of disability or otherwise provide medical reasoning explaining why any current condition or disability was due to the March 20, 2016 employment

⁷ *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, 55 ECAB 674 (2004).

⁸ *Dean E. Pierce*, 40 ECAB 1249 (1989).

⁹ *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

¹⁰ *Amelia S. Jefferson*, *supra* note 7.

injury.¹¹ Because Dr. Davis failed to provide any medical rationale for his conclusion, his opinion is of diminished probative value.¹²

Other reports from Dr. Davis and Dr. Binns are of limited probative value on the issue of total disability as they predate the claimed period of disability and do not address the claimed period of disability.¹³

Likewise, the prescription notes from Dr. Quillin dated September 26 to November 10, 2016 also failed to establish appellant's alleged disability due to the accepted March 20, 2016 cervical injury. Dr. Quillin indicated that appellant was to be on "no work status" until January 15, 2017 "due to PTSD." The Board notes, however, that Dr. Quillin attributed appellant's inability to work to PTSD, which is not an accepted condition.¹⁴ Dr. Quillin did not provide an opinion with sound medical reasoning establishing that appellant's diagnosed PTSD was causally related to the March 20, 2016 employment incident. Appellant bears the burden of proof to provide a clear explanation as to how the condition was the direct and natural result of the employment injury.¹⁵ Dr. Quillin never referenced appellant's accepted condition of cervical sprain. Furthermore, he did not discuss any objective findings to support appellant's inability to work, nor did he explain why he was totally disabled as a result of the March 20, 2016 employment injury.¹⁶

On appeal appellant alleges that it was documented from his very first doctor's visit that he also had emotional problems as a result of the March 20, 2016 employment incident. As explained above, however, OWCP has not accepted PTSD has a work-related condition. The Board has found that the issue of whether a claimant's disability from work is related to an accepted condition is a medical question, which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to the employment injury and supports that conclusion with sound medical reasoning.¹⁷ As appellant did not provide any rationalized medical evidence to establish his claim for total disability due to his March 20, 2016 employment injury, the Board finds that OWCP properly denied his claim for wage-loss compensation beginning September 26, 2016.

¹¹ See *William A. Archer*, 55 ECAB 674 (2004).

¹² *S.B.*, Docket No. 13-1162 (issued December 12, 2013).

¹³ See *S.W.*, Docket No. 17-0240 (issued July 25, 2017).

¹⁴ *B.L.*, Docket No. 15-0801 (issued July 10, 2015),

¹⁵ *Id.* The Board also noted that the claimant bears the burden of proof to establish a claim for a consequential injury, and must submit medical evidence on causal relationship supported by sound medical reasoning.

¹⁶ See *M.M.*, Docket No. 16-0541 (issued April 27, 2010).

¹⁷ See *G.B.*, Docket No. 16-1003 (issued December 5, 2016).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he was totally disabled commencing September 26, 2016 causally related to his accepted March 20, 2016 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the January 4, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 21, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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