

adjustment disorder, and post-traumatic stress disorder (PTSD) causally related to his federal employment.² On the claim form, he wrote that his job involved burial of veterans and their dependents, and other duties relating to maintenance of the facility. Appellant further asserted that constant exposure to death and grief had taken a toll. On the reverse of the claim form it was noted that he stopped working on August 14, 2015 and that the employing establishment had not received any specific medical documentation stating that the illness was directly related to the employee's duties at work.

Appellant submitted a September 23, 2015 letter explaining that he began working as a caretaker technician in November 2012, and he became the Contracting Officer Representative (COR) over the grounds maintenance contract. He noted that he was expected to be available at any time to change from work clothes into a shirt and tie, which was difficult due to the lack of adequate shower facilities at Port Hudson National Cemetery. Appellant wrote that as he transitioned from the task of handling services at Louisiana National Cemetery, he was assigned the tasks of handling services at both cemeteries. He noted that he took on administrative duties that included assigning gravesites, maintaining cemetery site maps, compiling files, handling committal services, and assisting grounds crew. Appellant also noted that the resignation of a Program Support Assistant left him with a heavy burden of responsibility, especially being asked to go back to the beginning of fiscal year 2015 and "clean-up" the burial files while also handling all of the services at three national cemeteries. He noted that he continued to carry a heavy workload as he felt an obligation to assist veterans and their families. According to appellant, the constant presence of grief caused stress, and he had to make arrangements "for personal friends and assist family members who did not understand the process."

The record contains a position description for the cemetery technician position. The job duties included greeting visitors and family members, escorting processions, presenting a flag to next of kin, as well as manual labor maintaining cemetery grounds.

On November 30, 2015 appellant submitted medical evidence. In a report dated April 2, 2015, Dr. John Simpson, a psychiatrist, noted that appellant had a history of PTSD. He diagnosed unspecified anxiety disorder, PTSD, unspecified depressive disorder, and chronic adjustment disorder by history.

By letter dated January 14, 2016, OWCP requested that appellant submit additional evidence to support the claim for compensation. It requested additional factual evidence, including specific dates, locations, and witness statements. Appellant was afforded 30 days to submit the necessary evidence.

In a February 1, 2016 memorandum, a supervisor wrote that appellant was "handling services" pursuant to a grounds maintenance contract. The supervisor related that appellant handled committal services at the cemetery and was also required to update burial files.

In a report dated February 9, 2016, Dr. Simpson reported that appellant was currently undergoing treatment for a service connected mental illness. He wrote that appellant's illness was relatively stable until this past year when he "started to decline secondary to stress [on] his job."

² The Form CA-2 was completed by the employing establishment and was not signed by appellant.

Dr. Simpson diagnosed “other specified and stressor related disorder,” unspecified depressive disorder, and chronic adjustment disorder by history. According to him, appellant’s mental illness was currently static and appellant had been on leave since August 2015. Dr. Simpson opined that appellant was currently disabled.

By decision dated June 8, 2016, OWCP denied the claim for compensation. It found there were no compensable work factors established. OWCP found appellant had not provided specific details of the alleged stressful events.

On June 22, 2016 appellant requested a hearing before an OWCP hearing representative. A hearing was held on February 15, 2017. At the hearing appellant stated that he found his job rewarding as he was helping veterans. He noted that when he commenced employment his earliest responsibilities were generally field work. Appellant noted that he was required to perform a lot of manual labor. He recounted the administrative duties of his position which he viewed as a zero fail mission due to the responsibility of putting the correct remains at the correct spot. Appellant indicated that he could be asked to wear a shirt and tie and attend a funeral service as a representative of the cemetery. He reported that he attended approximately 1,000 funerals. Appellant asserted this took a toll on him, and it was explained to him that this was “vicarious grief.” He stated that hearing Taps played five or six times a day, and having to be face to face with so much grief became overwhelming. According to appellant, it was difficult to take time off work and there was always more work to do. He noted that the work conditions were very arduous as he could not stop work for any reason, other than extreme weather conditions. Appellant noted that he would attempt to be highly conscientious to always speak to family members, as there was utmost dignity and respect of every partner in the funeral process. He noted the use of the Burial Operating System, which was arduous in and of itself, to try and create and generate documents to hand to the families at the time, which were very crucial to them knowing where their loved ones were and whether they were placed. Appellant also noted having flashbacks to his own service and mental anguish during a specific service in which a Marine and firefighter was carried to rest on a firetruck.

In a note dated January 4, 2017, Dr. Simpson opined that appellant was disabled due to a military related illness. Appellant submitted a January 31, 2017 report from Dr. Simpson, who indicated that appellant was being seen for medication management. In a brief report dated February 27, 2017, Dr. Simpson wrote that appellant was still under care for a service-related disability. He opined that appellant was disabled due to a mental illness.

By letter dated March 13, 2017, an employing establishment compensation specialist wrote that the claim should be denied based on fact of injury.

By decision dated May 2, 2017, the hearing representative affirmed the June 8, 2016 decision. She found that appellant had discussed his job in general terms, but not established any specific incidents. According to the hearing representative, appellant provided no evidence that “he played any work role in the specific funerals he mentioned.” In addition, she found the medical evidence was of diminished probative value.

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. On the other hand, the 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.³

Appellant has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence that the condition for which he claims compensation was caused or adversely affected by employment factors.⁴ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁵ A claimant must also submit rationalized medical opinion evidence establishing a causal relationship between the claimed condition and the established, compensable work factors.⁶

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.⁷ 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.⁸

ANALYSIS

Appellant has alleged that his duties as a cemetery caretaker contributed to an emotional condition. The hearing representative found that appellant did not establish any compensable work factors, and that he failed to submit probative medical evidence establishing causal relationship.

³ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁵ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

⁶ See *Bonnie Goodman*, 50 ECAB 139, 141 (1998).

⁷ See *Charles D. Edwards*, 55 ECAB 258 (2004); *Norma L. Blank*, 43 ECAB 384 (1993).

⁸ *Lori A. Facey*, 55 ECAB 217 (2004); *Norma L. Blank*, *id.*

The Board disagrees with the findings of the hearing representative as to compensable work factors.

According to the hearing representative, appellant did not submit evidence that he played any work role in the veteran's funerals which caused him undue stress. Appellant has alleged that his job duties included the attendance and participation in approximately 1,000 veterans' funerals. This is consistent with the job description of record for appellant's position. The job description clearly involved duties that included interacting with veterans' families and participation in funeral services while on cemetery grounds. Appellant specifically cited to a Marine funeral in which the deceased was transported on a firetruck, and resulted in flashbacks to his own service. No contrary evidence was presented by the employing establishment. Appellant alleged that his work often required him to attend the funerals of veterans, and that such work duty contributed to an emotional condition. The Board finds that he has therefore substantiated a compensable work factor related to his duties interacting in the burial process of service members and their families.

Appellant has also alleged that he was required to take on a heavy burden of responsibility to go back to the beginning of fiscal year 2015 and "clean-up" the burial files, all while handling all of the services at three national cemeteries. It is uncontested that his position involved a heavy workload spread out amongst administrative and physical duties over three national cemeteries. Appellant noted having to take on almost a purely administrative role when working as both a caretaker, a cemetery representative, and the contracting officer representative resulting in overwork. The Board finds that these elements relate to his job duties under *Lillian Cutler*⁹ and, as they are substantiated as factual, his stressful work in multiple positions at three national cemeteries is also found to be a compensable employment factor.

When a claimant attributes an emotional condition to regular or specially assigned duties that are substantiated by the record, a compensable work factor has been established.¹⁰ The Board finds that appellant has established compensable work factors as set forth herein.

The claim for compensation, however, is not established unless the medical evidence establishes a diagnosed emotional condition causally related to the compensable work factor.¹¹ OWCP's hearing representative also reviewed the medical evidence of record and found that it was of diminished probative value.

In this regard the Board finds the medical evidence does not establish that appellant's diagnosed emotional condition is causally related to the accepted employment incident. Dr. Simpson provided a brief reference to stress in appellant's job in his February 9, 2016 report. He did not provide further explanation. None of the medical reports of record provide a complete

⁹ *Supra* note 3.

¹⁰ *See B.P.*, Docket No. 11-0803 (issued November 7, 2011).

¹¹ *Id.*

factual and medical history, or a rationalized medical opinion.¹² There is no complete description of appellant's identified job duties. Moreover, Dr. Simpson refers to a military-related condition in his January 4 and February 27, 2017 reports, without further explanation. A proper history of injury should include a complete medical history and a proper explanation as to how the identified work duties affected a diagnosed condition. Medical conclusions based on inaccurate or incomplete histories are of little probative value.¹³ The failure of a physician to account for appellant's nonwork-related injury or disease processes undermines the medical opinion.¹⁴

It is appellant's burden of proof to establish the claim for compensation. The Board finds that appellant did not meet his burden of proof in this case.

On appeal appellant refers to his job duties, and makes an allegation of a hostile work environment. The Board notes that its jurisdiction is limited to review of evidence before OWCP at the time of the final decision on appeal.¹⁵ The allegation made before OWCP was that job duties related to the preparation and attendance at funerals caused stress. Appellant may submit additional evidence regarding additional allegations to OWCP. As to medical evidence, appellant asserts that Dr. Simpson supports the claim for compensation. For the reasons discussed, the medical evidence is of limited probative value and not sufficient to establish appellant's claim.

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 has not established an emotional condition causally related to the accepted compensable employment factors.

¹² To establish the claim, appellant must submit rationalized medical evidence based on a complete factual and medical history. See *Bonnie E. Rogers*, Docket No. 99-1964 (issued September 5, 2000); *William P. George*, 43 ECAB 1139 (1992).

¹³ *E.M.*, Docket No. 13-1864 (issued January 17, 2014).

¹⁴ *Id.*

¹⁵ 20 C.F.R. § 501.2(c)(1).

ORDER

IT IS HEREBY ORDERED THAT the May 2, 2017 decision of the Office of Workers' Compensation Programs is modified to reflect a compensable work factor has been established, and is affirmed as modified.¹⁶

Issued: April 17, 2018
Washington, DC

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

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

¹⁶ Colleen Duffy Kiko, Judge, participated in the decision, but was no longer a member of the Board effective December 11, 2017.