

conditions at work. She indicated that she first became aware of her claimed condition and first realized it was related to factors of her federal employment on March 20, 2012. Appellant stopped work in March 2013.

In accompanying statements, appellant discussed elements of her work which she considered stressful after beginning work in a laboratory at the employing establishment in September 2012. She asserted that her immediate supervisor, K.G., unduly punished her by assigning her a workload which he knew was unmanageable, both with regard to the number of tasks assigned and the complexity of the tasks. Appellant maintained that K.G. unfairly criticized her work, including an instance when he characterized her actions as “unacceptable” 11 times in a three-page letter dated May 13, 2013. After learning that she had been hospitalized for mental health reasons, K.G. sent her an e-mail on July 12, 2013 reminding her of the large number of assignments that remained incomplete and overdue despite the fact that K.G. had made her aware of this situation on multiple occasions during the prior months. Appellant asserted that K.G. improperly indicated in her performance appraisal that she had compromised the employing establishment’s mission by canceling a purchase card assigned to her for making travel plans for work meetings. In addition, K.G. failed to intervene after becoming aware that a coworker, J.B., sent e-mails to her on May 8, 2015 which contained false accusations.

Appellant further asserted that the employing establishment prevented her from participating in gene cloning training which was necessary for her job, and that K.G. misled her regarding the speed at which certain work projects had to be completed. She maintained that in January and February 2013 management mishandled the arrangements for a work-related conference she was to attend. Appellant asserted that her job requirements exceeded the abilities expected of a worker at her pay level, and that K.G. improperly changed her workload, including an instance when he changed the number of test slides she had to process each workday. After an ombudsman offered to assist in resolving the communication problems between K.G. and appellant, K.G. disregarded this offer of assistance. Appellant maintained that, after she expressed her intent to file a workers’ compensation claim, K.G. sent her an e-mail that lacked “the cordial and assisting overtone” of his prior e-mails. She also asserted that K.G. mishandled other matters relating to performance evaluations, leave usage, and payment for overtime work.

In a July 3, 2013 report, Dr. Narayanan Ramesh, an attending Board-certified psychiatrist, described various incidents and conditions at appellant’s work, mostly involving the supervisor, K.G., which appellant believed caused her to develop an emotional condition. He diagnosed major depressive disorder (severe and recurrent) without psychotic behavior due to these work incidents and conditions.

In a July 16, 2013 report, Dr. Steven Israel, an attending Board-certified psychiatrist, indicated that appellant had been hospitalized for the period June 11 to 18, 2013 because she had been depressed and contemplated suicide. Appellant reported that she had been upset since her immediate supervisor began placing unreasonable work demands on her commencing eight months prior. Dr. Israel provided discharge diagnoses of major depression and post-traumatic stress disorder.

In a September 13, 2013 report, Dr. Grace Sagayadan, an attending Board-certified internist, indicated that she had seen appellant in March 2013 for depression, anxiety, loss of

appetite, and insomnia, which appellant attributed to a hostile work environment created by her supervisor. She opined that severe work stress brought about appellant's depression, anxiety, loss of appetite, and insomnia, and she recommended that appellant seek another position under a different supervisor.

In a December 10, 2013 report, Dr. Mario E. Pruss, an attending Board-certified psychiatrist, indicated that he had seen appellant on several occasions since September 27, 2013 and noted that appellant also participated in psychotherapy sessions with a licensed social worker from his office. He indicated that appellant had not worked since her psychiatric hospitalization in June 2013 due to depression and anxiety causally related to a stressful relationship with her immediate supervisor at work. Dr. Pruss advised that appellant's clinical progress was encouraging and opined that this progress suggested that she would be psychologically able to resume full-time work as a biologist at some point in 2014. In a November 21, 2013 form report, he provided a diagnosis of severe anxiety and depression "triggered by adverse working environment." Dr. Pruss advised that appellant had a psychiatric hospitalization for the period June 11 to 18, 2013 and noted that appellant was "still in convalescence."

In a May 23, 2014 report, Dr. Pruss noted that he saw appellant on four occasions between September 2013 and January 2014 at which time he observed that her depressive disorder was in partial remission and that she also had post-traumatic stress disorder due to her interactions with her supervisor, K.G., at work. He indicated that appellant reported that in February 2014 she began working for a private employer in a position which she felt was "a good fit" for her.

By two decisions dated November 30, 2015, OWCP accepted appellant's claim for major depressive disorder (resolved).² It found that she had established employment factors with respect to several of the supervisors, K.G.'s actions, including assignment of an unmanageable workload, improper criticism of her work in a May 13, 2013 letter, an inappropriate e-mail sent on July 12, 2013, an improper reference to compromising the employing establishment's mission in a performance appraisal, and failure to intervene with respect to a coworker's May 8, 2015 e-mail containing false accusations. OWCP determined that the July 3, 2013 report of Dr. Ramesh indicated that appellant had sustained major depressive disorder (resolved) due to these factors.³

On March 12, 2016 appellant filed a claim for compensation (Form CA-7) claiming disability for the period August 21, 2013 to January 20, 2014 due to her accepted employment condition.

In an April 12, 2016 report, Dr. Pruss indicated that appellant had requested that he clarify the issues pertaining to her claim for employment-related disability for the period August 21, 2013 to January 20, 2014. He noted that she had reported that she felt K.G. had berated and persecuted her at work since August 2012 and that she felt deeply afraid to return to work as long as K.G. remained in his position. Dr. Pruss indicated that, under these circumstances, it was not rational

² OWCP had previously denied appellant's emotional claim on January 13, 2014 when it had determined that she failed to establish any compensable employment factors.

³ OWCP found that the accepted condition had resolved by the time of Dr. Pruss' May 23, 2014 report in which he reported that appellant had returned to work for a private employer in February 2014.

for appellant to have solicited a return to work at the employing establishment. He opined that there was a “cause-effect connection” between her diagnosed condition of post-traumatic stress disorder and the “ugly interpersonal situation” with K.G. Dr. Pruss noted that the condition of major depressive disorder had not been rejected by OWCP “in terms of an etiological cause-effect connection with the job site intense conflict.”

By decision dated June 10, 2016, OWCP denied appellant’s claim for employment-related disability for the period August 21, 2013 to January 20, 2014. It found that the evidence submitted by her, including the reports of Dr. Pruss, failed to contain medical rationale relating her work stoppage to the accepted employment condition.

On March 13, 2017 appellant requested reconsideration of the June 10, 2016 decision. In an accompanying statement, she identified the medical evidence which she believed supported her claim for employment-related disability for the period August 21, 2013 to January 20, 2014.

Appellant submitted a March 5, 2017 report from Dr. Pruss, who discussed his treatment of appellant since September 27, 2013 at which time she had already received the diagnosis of major depression (severe and recurrent) without psychosis. Dr. Pruss pointed out that she also warranted the employment-related diagnosis of post-traumatic stress disorder at that time. He opined that the causal connection between appellant’s psychiatric symptoms and the months of “bitter interaction” with K.G. was evident throughout 2013 and the beginning of 2014.⁴ Dr. Pruss noted that the fact that appellant had milder manifestations of depression and anxiety in the last quarter of 2013 was not a “green light” reason for her to return to the workplace. He indicated that appellant was unable to return to work until February 2014 even though her employment-related diagnoses “remained valid” at that time. Dr. Pruss asserted that nobody, other than OWCP officials, had provided an opinion that appellant was able to return to work during her claimed period of disability between mid-2013 and early-2014.

By decision dated November 21, 2017, OWCP denied modification of its June 10, 2016 decision. It found that Dr. Pruss’ March 5, 2017 report did not establish appellant’s claim for employment-related disability for the period August 21, 2013 to January 20, 2014.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁵ In general, the term disability under FECA means incapacity because

⁴ Dr. Pruss discussed K.G.’s actions, including an instance when he characterized her actions as “unacceptable” 11 times in a three-page letter dated May 13, 2013.

⁵ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

of injury in employment to earn the wages, which the employee was receiving at the time of such injury.⁶ This meaning, for brevity, is expressed as disability for work.⁷

The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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.⁸

Whether a particular employment injury causes disability for employment and the duration of that disability are medical issues, which must be proved by a preponderance of reliable, probative and substantial medical evidence.⁹ Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.¹⁰

ANALYSIS

The Board finds that the case is not in posture for decision.

In support of her claim for employment-related disability from August 21, 2013 to January 20, 2014,¹¹ appellant submitted several reports of Dr. Pruss.

In a December 10, 2013 report, Dr. Pruss indicated that appellant had not worked since her psychiatric hospitalization in June 2013 due to depression and anxiety causally related to a stressful relationship with her immediate supervisor at work. He advised that her clinical progress was encouraging and opined that this progress suggested that she would be psychologically able to resume full-time work as a biologist at some point in 2014.

In an April 12, 2016 report, Dr. Pruss indicated that appellant had requested that he clarify the issues pertaining to her claim for employment-related disability for the period August 21, 2013 to January 20, 2014. He noted that she had reported that she felt K.G. had berated and persecuted her at work since August 2012 and that she felt deeply afraid to return to work as long as K.G.

⁶ See 20 C.F.R. § 10.5(f).

⁷ *Roberta L. Kaaumoana*, 54 ECAB 150 (2002); see also *A.M.*, Docket No. 09-1895 (issued April 23, 2010).

⁸ See *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

⁹ *W.D.*, Docket No. 09-658 (issued October 22, 2009).

¹⁰ *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

¹¹ OWCP accepted appellant's claim for major depressive disorder, noting that the condition had resolved by the time of Dr. Pruss' May 23, 2014 report in which he reported that appellant returned to private employment in February 2014. It accepted that the condition was caused by various incidents and conditions relating to appellant's immediate supervisor, K.G.

remained in his position. Dr. Pruss indicated that, under these circumstances, it was not rational for appellant to have solicited a return to work at the employing establishment.

In a March 5, 2017 report, Dr. Pruss discussed his treatment of appellant since September 27, 2013, noting that she had the employment-related diagnoses of major depression and post-traumatic stress disorder at that time. He opined that the causal connection between appellant's psychiatric symptoms and the months of "bitter interaction" with K.G. was evident throughout 2013 and the beginning of 2014. Dr. Pruss noted that the fact that appellant had milder manifestations of depression and anxiety in the last quarter of 2013 was not a "green light" reason for appellant to return to the workplace. He asserted that appellant was not able to return to work until February 2014 even though her employment-related diagnoses "remained valid" at that time.

Dr. Pruss' reports contain a history of injury, diagnoses, and an opinion that appellant had disability from August 21, 2013 to January 20, 2014 which was at least partially due to her accepted employment condition, major depressive disorder.¹² While his reports are insufficient to meet appellant's burden of proof, they do raise an uncontroverted inference of causal relation between her accepted employment condition and the claimed period of disability, and are sufficient to require OWCP to undertake further development of appellant's claim.¹³

Thus, the Board finds that further development is required to determine whether appellant had disability from August 21, 2013 to January 20, 2014 due to her accepted employment condition.¹⁴ On remand OWCP should prepare a statement of accepted facts and refer appellant to an appropriate Board-certified specialist for a second opinion examination and an evaluation regarding whether she had employment-related disability from August 21, 2013 to January 20, 2014.¹⁵ Following any necessary further development, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that the case is not in posture for decision.

¹² Dr. Pruss also found disability due to post-traumatic stress disorder, a condition which has not been accepted as employment related.

¹³ See *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁴ *D.C.*, Docket No. 14-1312 (issued May 6, 2015); *K.M.*, Docket No. 12-0726 (issued January 22, 2013); *D.N.*, Docket No. 09-0651 (issued April 20, 2010).

¹⁵ As part of the evaluation, consideration should be given to whether appellant sustained post-traumatic stress disorder due to the accepted employment factors.

ORDER

IT IS HEREBY ORDERED THAT the November 21, 2017 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further action consistent with this decision.

Issued: December 30, 2019
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board