

ISSUE

The issue is whether appellant has met her burden of proof to establish a stress-related condition in the performance of duty, as alleged.

FACTUAL HISTORY

On December 9, 2021 appellant, then a 53-year-old human resource labor clerk/city carrier associate, filed a traumatic injury claim (Form CA-1) alleging that she sustained chronic stress on or about December 2, 2021 due to factors of her federal employment.

The record reflects that, under OWCP File No. xxxxxx527, appellant also has an occupational disease claim (Form CA-2) for an emotional condition with a June 1, 2020 date of onset.³

In the current claim, OWCP received a December 15, 2021 letter from Tonika D. Evans, a licensed professional counselor and therapist. Ms. Evans noted that appellant's current work environment was hostile and presented challenges to appellant's ability to complete her job tasks. She noted that appellant is denied entry to her place of employment and access to materials to fulfill her job duties. Ms. Evans noted that appellant was previously diagnosed with and treated for major depressive disorder recurrent episode moderate and generalized anxiety disorder. She opined that appellant's current symptoms were consistent with those diagnoses.

In a January 4, 2022 email, appellant indicated that she would be filing a complaint against the employing establishment and OWCP concerning hostile retaliation. She indicated that she was not being paid continuation of pay (COP) since December 2, 2021 despite a valid diagnosis and that her claim was not being handled in a timely manner. Appellant alleged retaliation, harassment, and unfair treatment from the employing establishment and OWCP.

In medical reports dated June 2 and September 27, 2021, Dr. Olabisi P. Lane, a pain management specialist, diagnosed postlaminectomy syndrome, peripheral neuropathy, lumbar spondylosis, lumbar neuritis, anxiety, and depression.

In a development letter dated January 4, 2022, OWCP informed appellant of the deficiencies of her claim and requested that she submit additional factual and medical evidence, including a detailed description of the implicated work factors, which she alleged caused her "chronic stress and damage to her body" in addition to a well-rationalized report from her physician regarding the cause of her emotional condition. It requested that she respond to the questions in an attached questionnaire and return it to OWCP. On the same date a development letter was sent to the employing establishment requesting a response to appellant's allegations. OWCP afforded both parties 30 days to respond.

³ Appellant's claims have not been administratively combined.

Appellant submitted an unsigned statement dated January 4, 2022 in which she indicated that Ms. Evans was licensed and trained to treat individuals like herself who had anxiety and depression disorders. She disagreed that her job was that as a human resource labor clerk.

OWCP received a November 21, 2020 notification of postal personnel action (Form PS-50), indicating that appellant's position title was that of rural carrier associate; one page from an internet article concerning Ms. Evans; and one page of a September 17, 2021 email to appellant from P.M., inquiring whether appellant wanted to amend her complaint to include additional issues.

By decision dated February 4, 2022, OWCP denied appellant's claim for an employment-related emotional condition. It found that the factual evidence of record was insufficient to establish that appellant actually experienced the employment incident(s) alleged to have occurred. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish 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 filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

To establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.⁷

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

⁴ See *supra* note 1.

⁵ *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ 20 C.F.R. § 10.115(e); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); see *T.O.*, Docket No. 18-1012 (issued October 29, 2018); see *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ See *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *M.C.*, Docket No. 14-1456 (issued December 24, 2014); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

employment, the disability comes within the coverage of FECA.⁸ 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.⁹

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 constitute compensable factors of employment and which working conditions are not deemed factors of employment and may not be considered.¹⁰ 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.¹¹

ANALYSIS

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

Appellant filed a traumatic injury claim on December 9, 2021 alleging chronic stress on or about December 2, 2021 due to factors of her federal employment. Evidence received in support of the claim referenced appellant's prior claim and allegations in OWCP File No. xxxxxx527.

The record reflects that, under OWCP File No. xxxxxx527, appellant has an occupational disease claim (Form CA-2) for an emotional condition with a June 1, 2020 date of onset.

In OWCP File No. xxxxxx555 appellant alleged that she sustained further injury as she was entitled to payment of benefits in OWCP File No. xxxxxx527.

OWCP's procedures provide that cases should be administratively combined when correct adjudication depends on cross-referencing between files and where two or more injuries occur to the same part of the body.¹² For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.¹³ In the instant case, appellant filed a traumatic injury claim for employment-related anxiety and depression, arising from events also alleged in OWCP File No. xxxxxx527. The Board

⁸ *L.H.*, Docket No. 18-1217 (issued May 3, 2019); *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

⁹ *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

¹⁰ *L.S.*, Docket No. 18-1471 (issued February 26, 2020); *see Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

¹¹ *Id.*

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

¹³ *Id.*; *Order Remanding Case, L.G.*, Docket No. 18-1676 (issued August 22, 2019); *Order Remanding Case, D.L.*, Docket No. 17-1588 (issued January 28, 2019).

notes that her prior claim under OWCP File No. xxxxxx527 also involved a claim for employment-related emotional conditions. However, appellant's claims have not been administratively combined.

For a full and fair adjudication, this case shall be remanded to OWCP to administratively combine the current case record, OWCP File No. xxxxxx555, with OWCP File No. xxxxxx527 along with appellant's other emotional or stress-related condition claims.¹⁴ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.¹⁵

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the February 4, 2022 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 16, 2022
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹⁴ See *Order Remanding Case, C.Y.*, Docket No. 20-1079 (issued December 7, 2020); *Order Remanding Case, K.T.*, Docket No. 17-0432 (issued August 17, 2018).

¹⁵ See *Order Remanding Case, T.L.*, Docket No. 18-0935 (issued February 25, 2020); *Order Remanding Case, T.M.*, Docket No. 18-0887 (issued February 21, 2019).