United States Department of Labor
Employees' Compensation Appeals Board

D.A., Appellant	)	
and	)	**Docket No. 23-0564**
	)	**Issued: February 20, 2025**
DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION, Portland, OR, Employer	)	

Appearances:
Appellant, pro se,
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On March 14, 2023 appellant filed a timely appeal from a March 1, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish an emotional condition in the performance of duty, as alleged.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On December 27, 2022 appellant, then a 50-year-old security administrator, filed a traumatic injury claim (Form CA-1) alleging that on October 18 2022[2] he watched a video called "fight or flight" and discussed it in depth while in the performance of duty. He explained that this retriggered his post-traumatic stress disorder (PTSD) and caused severe depression, anxiety, and night terrors. On the reverse side of the claim form, an employing establishment supervisor indicated that appellant was injured in the performance of duty. However, he controverted the claim, asserting that appellant had first stated that his condition was due to an illness he contracted, but was now claiming that it was due to a mandatory training he took on October 18, 2022, and that his claim form had indicated that the training date was October 17, 2022. Appellant stopped work on November 28, 2022.

In support of his claim, appellant submitted an undated position description detailing the essential functions of transportation security officers and expert transportation security officers. An undated e-mail from the employing establishment noted that mandatory active shooter training for new hires was scheduled on October 13, 2022 for two hours.

In a December 13, 2022 e-mail, appellant informed the employing establishment that he was struggling to return to work because he was experiencing PTSD and depression that had worsened after he became ill, and that he missed two weeks of work due to his illness.

A December 15, 2022 letter from Dr. Louis Peng, Board-certified in internal medicine, related that appellant was exposed to COVID-19 on November 25, 2022. Dr. Peng returned appellant to work on December 20, 2022.

In a January 2, 2023 statement, appellant noted that on October 18, 2022 at 10 a.m. he watched a film called "fight or flight," after which the class acted out a scenario in which there was a shooter in the hallway. He related that he began having nightmares and grew paranoid at every person he encountered. Subsequently, appellant became ill and took leave, at which time his nightmares worsened and his body froze when he was due to return to work. He realized that his PTSD was retriggered. Appellant thought about the video constantly and was concerned that an incident would happen at work.

In a January 3, 2023 e-mail to the employing establishment, appellant related that while he was ill, he was also having a difficult time with depression, which worsened when the time came for him to return to work.

In a January 5, 2023 challenge letter, the employing establishment controverted the claim, asserting that appellant had failed to establish fact of injury, performance of duty, a medical diagnosis, or causal relationship. It asserted that the worsening of his symptoms did not occur in the performance of duty because he had stated that his depression while on sick leave became worse as the time grew closer for him to return to work. The employing establishment related that its records indicated that the fight or flight training occurred on October 13, 2022 but that appellant

[2] Appellant initially identified the date of the mandatory training as October 17, 2022; however, he subsequently clarified that it had occurred on October 18, 2022.

had indicated that it had occurred on October 17, 2022 in his Form CA-1 and then on October 18, 2022 in his January 2, 2023 statement.

In a January 18, 2023 development letter, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to submit the necessary evidence.

Thereafter, OWCP received a January 13, 2023 note from Dr. Joshua Dyer, a clinical psychologist, relating that he treated appellant on December 28, 2022 and January 5, 2023. Dr. Dyer diagnosed major depressive disorder (severe without psychosis) and PTSD and noted that appellant had a history of traumatic brain injury. He indicated that appellant was unable to work due to the severity of his symptoms.

In a January 19, 2023 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a factual questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP subsequently received an undated response to the development letter in which the employing establishment controverted appellant's claim, asserting that his e-mail correspondence indicated that his PTSD episode was due to an illness.

In a January 26, 2023 letter, Dr. Dyer noted that appellant had reported a history of traumatic brain injury, trauma related to an assault in 2003, and had previously coped with PTSD. He indicated that appellant began working for the employing establishment three months earlier, which initially triggered a slight exacerbation of his PTSD symptoms, after which his participation in an intensive active shooter training significantly exacerbated his symptoms. Appellant reported nightmares, daymares, hypervigilance, physiologic stress, shaking, gastrointestinal distress, poor appetite, feeling emotionally cut off, and a strong desire to be left alone, which impacted his ability to do his job. Dr. Dyer diagnosed major depressive disorder, severe without psychosis, and chronic PTSD.

By decision dated March 1, 2023, OWCP denied appellant's emotional condition claim, finding that he had not established a compensable employment factor. Consequently, it found that he had not met the requirements to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim,[4] including that he or she sustained an injury in the performance of duty and that any specific condition or disability from work for which he or she

[3] *Id*.

[4] *L.G.*, Docket No. 21-0690 (issued December 9, 2021); *S.S.*, Docket No. 19-1021 (issued April 21, 2021); *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

claims compensation is causally related to that employment injury.[5] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon 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.[8] 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.[9] On the other hand, the disability is not covered when 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.[10]

ANALYSIS

The Board finds this case not in posture for decision.

In his December 27, 2022 Form CA-1, appellant alleged that on October 18, 2022 he was required to attend an active shooter training where he watched a video called "fight or flight" and discussed it in depth while in the performance of duty. Also, his class had acted out a scenario in which a shooter was in the hallway. Appellant thereafter experienced nightmares and paranoia, and he realized that he his preexisting PTSD was retriggered. Appellant thought about this training constantly and was concerned that an active shooter incident would occur at work. The employing

[5] *L.G., id.*; *S.S., id.*; *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[6] 20 C.F.R. § 10.115(e); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *T.O.*, Docket No. 18-1012 (issued October 29, 2018); *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).

[8] *See T.L.*, Docket No. 18-0100 (issued June 20, 2019); *L.D.*, 58 ECAB 344 (2007); *Robert Breeden*, 57 ECAB 622 (2006).

[9] *See S.K., supra* note 7; *D.T.*, Docket No. 19-1270 (issued February 4, 2020); *Thomas D. McEuen*, 41 ECAB 387 (1990); *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

[10] *See S.K., id.*; *Gregorio E. Conde*, 52 ECAB 410 (2001).

establishment confirmed that the video was part of a mandatory training that appellant had completed.

The Board has held that conditions related to stress from situations in which an employee is trying to meet his or her position requirements are compensable.[11] Appellant has alleged that he sustained an emotional/stress-related condition while performing his regularly or specially assigned duties when he participated in a mandatory active shooter training for new hires. Under *Cutler*,[12] he has established that watching and discussing the "fight or flight" video and subsequently acting out a scenario of a shooter in the hallway constituted a compensable employment factor.

As OWCP found that there were no compensable employment factors, it did not analyze or develop the medical evidence. The case must, therefore, be remanded for consideration of the medical evidence with regard to whether appellant has established an emotional condition in the performance of duty causally related to the compensable employment factor.[13] After this and such other further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds this case not in posture for decision.

[11] *L.R.*, Docket No. 23-0925 (issued June 20, 2024); *K.J.*, Docket No. 17-1851 (issued September 25, 2019); *Jeral R. Gray*, 57 ECAB 611 (2006).

[12] *Supra* note 8.

[13] *See B.J.*, Docket No. 23-1079 (issued March 4, 2024); *E.A.*, Docket No. 19-0582 (issued April 22, 2021).

ORDER

IT IS HEREBY ORDERED THAT the March 1, 2023 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 20, 2025
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