

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EFFIE R. POWELL-ROSS and U.S. POSTAL SERVICE,
POST OFFICE, Oakland, CA

*Docket No. 00-1774; Submitted on the Record;
Issued May 1, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained an emotional condition while in the performance of duty.

The Board has duly reviewed the case record on appeal and finds that the case is not in posture for a decision.

In order to establish that appellant sustained an emotional condition causally related to factors of her federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that her emotional condition or psychiatric disorder is causally related to the identified compensable employment factors.¹

Appellant, a 43-year-old customer service manager, filed a claim on August 26, 1999 alleging that she sustained job-related stress. She explained that her condition was the result of an August 25, 1999 encounter with a "distracted and uncontrollable" employee. Appellant further indicated that the following day another coworker approached her office door and made unpleasant remarks about her.

By decision dated January 24, 2000, the Office of Workers' Compensation Programs denied appellant's claim on the basis that the medical evidence of record did not establish that appellant sustained an emotional condition causally related to factors of her federal employment.² Specifically, the Office explained that, although appellant was diagnosed on August 26, 1999 with "work-related stress," under the Federal Employees' Compensation Act

¹ See *Kathleen D. Walker*, 42 ECAB 603 (1991).

² The Office, however, found that the record supported that appellant actually experienced the claimed event.

stress was not considered a medical diagnosis. The Office concluded that the “medical evidence fail[ed] to provide a history of the work injury and a diagnosis linked to the injury event.”

Appellant’s burden of proof is not discharged by the fact that she established an employment factor that may give rise to a compensable disability under the Act. To establish her occupational disease claim for an emotional condition, appellant must also submit rationalized medical evidence establishing that she has an emotional or psychiatric disorder and that such disorder is causally related to the accepted compensable employment factors.³

In addition to the previously noted August 26, 1999 diagnosis of “work-related stress,” the record includes a November 4, 1999 duty status report (Form CA-17) from Dr. Jeanne L. Rivoire, a psychologist, who diagnosed post-traumatic stress disorder attributable to appellant’s August 25, 1999 employment incident. While this report was date-stamped as received by the Office on December 14, 1999, the Office did not specifically address Dr. Rivoire’s findings in its January 24, 2000 decision. Inasmuch as the Board’s decisions are final as to the subject matter appealed, it is crucial that the Office address all relevant evidence properly submitted to the Office prior to the issuance of its decision.⁴ In light of the Office’s failure to consider Dr. Rivoire’s November 4, 1999 diagnosis of post-traumatic stress disorder, the case is remanded for further review.⁵

³ *Ronald C. Hand*, 49 ECAB 113, 117 (1997).

⁴ 20 C.F.R. § 501.6(c); see *William A. Couch*, 41 ECAB 548, 553 (1990).

⁵ In a letter dated May 3, 2000, the Office advised appellant’s counsel that it had received several additional documents subsequent to the issuance of its January 24, 2000 decision. Dr. Rivoire’s November 4, 1999 Form CA-17 was included among the list of additional evidence received. The Office further advised counsel that the additional evidence had not altered its prior decision and that if appellant wished to appeal the January 24, 2000 decision she must specify which appeal process she intended to pursue. The Office’s purported consideration of Dr. Rivoire’s November 4, 1999 duty status report does not obviate the need for a remand. The Board and the Office may not simultaneously exercise jurisdiction over the same issue in a case. *Arlonia B. Taylor*, 44 ECAB 591 (1993). Inasmuch as appellant filed her appeal with the Board on April 27, 2000, the Office lacked jurisdiction to consider the issue on May 3, 2000, and thus, could not have altered its prior decision. *Terry L. Smith*, 51 ECAB (Docket No. 97-808, issued November 29, 1999).

The January 24, 2000 decision of the Office of Workers' Compensation Programs is hereby set aside, and the case is remanded for further consideration consistent with this opinion.

Dated, Washington, DC
May 1, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member