

**United States Department of Labor
Employees' Compensation Appeals Board**

J.T., Appellant

and

**SOCIAL SECURITY ADMINISTRATION,
REGIONAL OFFICE, Roanoke Rapids, NC,
Employer**

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**Docket No. 06-1308
Issued: February 23, 2007**

Appearances:
Martin Kaplan, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 17, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' April 13, 2006 merit decision concerning her consequential injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.¹

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained an emotional condition related to her accepted orthopedic conditions.

¹ The record contains a March 28, 2006 decision terminating appellant's disability compensation effective April 16, 2006 on the grounds that she had no orthopedic disability after that date. Appellant has not appealed this decision to the Board and the matter is not an issue currently before the Board.

FACTUAL HISTORY

On January 15, 2002 appellant, then a 46-year-old claims assistant, filed an occupational disease claim alleging that she injured her arms, wrists and hands due to the repetitive upper extremity movement required by her job. The Office accepted that she sustained bilateral carpal tunnel syndrome and aggravation of osteoarthritis of the carpometacarpal joints of both thumbs. Appellant underwent right carpal tunnel release surgery in April 2002 and left carpal tunnel release surgery in July 2002. She received appropriate compensation for periods of disability.

Appellant received continuing treatment for her orthopedic conditions from Dr. Gilbert G. Whitmer, a Board-certified orthopedic surgeon, who indicated in late 2003 that she was totally disabled from work. Dr. Whitmer stated that appellant's disability was caused by the weakness and pain in her hands and wrists.

The Office referred appellant to Dr. Ganesh Bissram, a Board-certified orthopedic surgeon, who determined in February 2004 that she could return to light-duty work which did not involve heavy gripping, heavy lifting or repetitive hand motion. Dr. Bissram noted that appellant exhibited some loss of grip strength and reported persistent pain in her wrists.

In June 2004 the Office determined that there was a conflict in the medical evidence between Dr. Whitmer and Dr. Bissram regarding the degree of disability caused by appellant's accepted orthopedic conditions. It referred her to Dr. Adolfo Hector Marsigi, a Board-certified orthopedic surgeon, for an impartial medical examination and an opinion on the matter. On October 5, 2004 Dr. Eduardo Oscar Marsigi, another physician who was also a Board-certified orthopedic surgeon, determined that appellant did not have any continuing disability due to her accepted orthopedic conditions. He noted that appellant had no trigger points along the scars of her carpal tunnel releases and that she gave a poor effort on grip strength testing. Dr. Marsigi stated that she had no clinical evidence of reflex sympathetic dystrophy and that her continuing thumb complaints were due to the natural progression of her preexisting osteoarthritis.

Appellant claimed that she sustained depression and hypertension due to pain from her accepted orthopedic conditions. On January 31, 2005 Dr. Gerardo M. Maradiaga, an attending Board-certified internist, stated that appellant had severe chronic pain syndrome and significant problems from carpal tunnel syndrome. He noted, "She also has severe depression which in some ways is multifactorial, some related to her social situation and the fact that she has n[o]t been able to work for several years. Chronic pain is causing some significant influence on her depression."

On March 25, 2005 Dr. Scott L. Cunningham, an attending Board-certified psychiatrist, found that appellant suffered from "major depression, single episode, moderate." Regarding the cause of the depression, Dr. Cunningham noted that she "had not had any depressions prior to the carpal tunnel syndrome involving both hands." He indicated that appellant reported a constant burning sensation in each palm and sensitivity in each surgical incision site which caused restrictions in her daily activity. Dr. Cunningham stated:

"The first depression in an individual's life often is precipitated by some external stressor. As she had no prior depression, she was less likely than someone with

prior depression to slide into a depression without some stressor. The stressor of a life compromised by ongoing pain and concomitant restriction in activities could certainly be a necessary stressor to induce a depressive episode.”

In an April 4, 2005 decision, the Office found that appellant did not meet her burden of proof to establish that she sustained an emotional condition related to her accepted orthopedic conditions. The Office determined that the reports of Dr. Maradiaga and Dr. Cunningham were not sufficiently well rationalized to support appellant’s claim.

In an April 19, 2005 decision, the Office terminated appellant’s compensation effective April 18, 2005 based on the opinion of Dr. Marsigi. This decision was reversed by an Office hearing representative on October 4, 2005 who determined that the referral to the impartial medical specialist was improper because appellant was sent to Dr. Eduardo Oscar Marsigi rather than Dr. Adolfo Hector Marsigi. The hearing representative also affirmed the Office’s April 4, 2005 decision.

In order to resolve the conflict in the medical evidence regarding the degree of disability caused by appellant’s accepted orthopedic conditions, the Office referred her to Dr. Paul H. Wright, a Board-certified orthopedic surgeon, for an impartial medical examination. In December 1, 2005 and January 23, 2006 reports, Dr. Wright reported limited findings in appellant’s hands and wrists and posited that she could perform her regular work as a claims assistant. He indicated that appellant had hypertension, depression and chronic pain syndrome and that there was “quite a bit of emotional, psychogenic overly to her chronic pain syndrome,” but noted that he was not qualified to comment on such conditions.

On May 18, 2005 Dr. Ravinder Mamedi, an attending Board-certified psychiatrist, stated that appellant reported that she felt depressed for the past one and a half years and that she continued to have pain and numbness from her shoulders to hands related to her carpal tunnel syndrome. Dr. Mamedi diagnosed “major depressive disorder, recurrent, severe without psychotic features.” On March 1, 2006 Dr. Mamedi provided the same diagnosis and stated, “Based on the evaluation it is my opinion that patient’s multiple psychosocial stressors like unemployment, financial difficulties, relational problems with her husband and not getting adequate relief from her pain in the shoulders, hands and fingers have precipitated her current episode of depression.”

In a March 28, 2006 decision, the Office terminated appellant’s disability compensation effective April 16, 2006 on the grounds that she had no orthopedic disability after that date. The Office based its determination on the opinion of Dr. Wright.

In an April 13, 2006 decision, the Office affirmed its prior decisions denying appellant’s claim that she sustained an emotional condition due to her accepted orthopedic conditions. The Office found that the reports of Dr. Mamedi were of limited probative value on this issue.

LEGAL PRECEDENT

Under the Federal Employees' Compensation Act,² a claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition or disability for which she claims compensation was caused or adversely affected by employment factors.³ This burden includes the submission of a detailed description of the employment factors or conditions which the claimant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁴ The Board has held that an emotional condition related to chronic pain and limitations resulting from an employment injury is covered under the Act.⁵

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, 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.⁶ If a claimant does implicate a factor of employment, the Office 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, the Office must base its decision on an analysis of the medical evidence.⁷

ANALYSIS

The Office accepted that appellant sustained bilateral carpal tunnel syndrome and aggravation of osteoarthritis of the carpometacarpal joints of both thumbs. Appellant claimed that she sustained depression and hypertension due to residuals of her accepted conditions.

As noted, the Board has held that an emotional condition related to chronic pain and limitations resulting from an employment injury is covered under the Act. Appellant has identified an employment factor in the form of her employment-related injury. However, to establish her claim she must submit rationalized medical evidence relating her claimed emotional condition to chronic pain and limitations from her accepted orthopedic conditions.⁸ The Board finds that appellant did not submit adequate medical evidence to establish her claim for an employment-related emotional condition.

² 5 U.S.C. §§ 8101-8193.

³ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁴ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

⁵ *See Arnold A. Alley*, 44 ECAB 912, 921-22 (1993); *Charles J. Jenkins*, 40 ECAB 362, 367 (1988).

⁶ *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁷ *Id.*

⁸ *See supra* notes 4 and 8 and accompanying text.

On March 25, 2005 Dr. Cunningham, an attending Board-certified psychiatrist, found that appellant had major depression. He suggested that this condition was employment related by stating that the “stressor of a life compromised by ongoing pain and concomitant restriction in activities could certainly be a necessary stressor to induce a depressive episode.” Dr. Cunningham noted that appellant reported pain and abnormal sensation in her wrists and hands which restricted her activities and stated that she “had not had any depressions prior to the carpal tunnel syndrome involving both hands.” This report, however, is of limited probative value on the relevant issue of the present case. Dr. Cunningham did not provide adequate medical rationale in support of his stated conclusion on causal relationship.⁹ He did not describe the nature, extent or course of appellant’s orthopedic condition in any detail or explain how this physical condition could have caused or contributed to her emotional condition. Dr. Cunningham did not provide any notable description of the orthopedic treatment reports in the record and therefore his opinion was not based on a complete and accurate factual and medical history.¹⁰ He appears to have relied on appellant’s own reporting of her pain and limitations rather than any objective medical evidence. Dr. Cunningham noted that appellant did not have depression prior to her carpal tunnel condition, but the Board has held that the fact that a condition manifests itself or worsens during a period of employment¹¹ or that work activities produce symptoms revelatory of an underlying condition¹² does not raise an inference of causal relationship between a claimed condition and employment factors. The Board notes that the objective findings in appellant’s upper extremities were limited in nature around the time she first was evaluated for an emotional condition, a date three years after she filed her orthopedic claim.¹³

On March 1, 2006 Dr. Mamedi, an attending Board-certified psychiatrist, diagnosed a major depressive disorder. He stated, “Based on the evaluation it is my opinion that patient’s multiple psychosocial stressors like unemployment, financial difficulties, relational problems with her husband and not getting adequate relief from her pain in the shoulders, hands and fingers have precipitated her current episode of depression.” Although Dr. Mamedi indicated that employment-related pain contributed to appellant’s depression, his reports fail to provide adequate medical rationale in support of his opinion on causal relationship. He did not refer to the orthopedic treatment reports in the record to describe the nature, extent or course of

⁹ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

¹⁰ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

¹¹ *Id.*

¹² *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

¹³ On January 31, 2005 Dr. Maradiaga, an attending Board-certified internist, stated that appellant had severe chronic pain syndrome and significant problems from carpal tunnel syndrome. He suggested that the pain from appellant’s employment-related arm condition, in addition to her “social situation” and unemployment, contributed to the development of her depression. Dr. Maradiaga did not provide any rationale for his apparent opinion on causal relationship and such rationale would be especially necessary in his case as he does not specialize in a field peculiar to appellant’s claimed condition. See *Lee R. Newberry*, 34 ECAB 1294, 1299 (1983).

appellant's orthopedic condition. Dr. Mamedi did not explain the medical process through which such a condition could have contributed to her claimed emotional condition. The medical evidence of record is not sufficient to support an emotional condition as a consequence of the accepted physical injury.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an emotional condition related to her accepted orthopedic conditions.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' April 13, 2006 decision is affirmed.

Issued: February 23, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board