United States Department of Labor
Employees' Compensation Appeals Board

T.G., Appellant	)	
and	)	**Docket No. 15-12**
	)	**Issued: June 1, 2015**
DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, Boulder City, NV, Employer	)	

Appearances:
Lonnie Boylan, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 3, 2014 appellant, through her representative, filed a timely appeal from a September 16, 2014 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 met her burden of proof to establish that her stress conditions are causally related to an August 2, 2013 employment incident, as alleged.

On appeal, appellant's representative contends that the medical evidence submitted is sufficient to establish that appellant sustained post-traumatic stress disorder as a result of being trapped alone in a dark disabled elevator with no means of communication with the outside world. He requests that OWCP's decision be set aside and the case remanded for further

[1] 5 U.S.C. § 8101 *et seq.*

development until such time as it is in posture for a *de novo* decision in regards to appellant's claim.

FACTUAL HISTORY

On August 2, 2013 appellant, then a 52-year-old administrative support assistant, filed a traumatic injury claim (Form CA-1) alleging that her stress level and blood pressure rose as a result of being trapped in a disabled elevator for 20 minutes while in the performance of duty that day.

An OWCP Form CA-16, authorization for examination, was issued by the employing establishment on August 2, 2013. Appellant was authorized to visit Boulder City Hospital in Boulder City, Nevada. She submitted hospital records dated August 2, 2013 from her visit to the emergency department at Boulder City Hospital.

In an August 27, 2013 letter, OWCP indicated that, when appellant's claim was received, it appeared to be a minor injury that resulted in minimal or no lost time from work and, based on these criteria and because the employing establishment did not controvert continuation of pay or challenge the case, payment of a limited amount of medical expenses was administratively approved. It indicated that it had reopened the claim for consideration because it had received an indication that she had not returned to work in a full-time capacity. OWCP requested additional evidence and afforded appellant 30 days to respond to its inquiries.

Appellant submitted reports dated August 5 and 15, 2013 from Dr. Irfan Tahir, a Board-certified internist, who diagnosed anxiety and benign essential hypertension. Dr. Tahir indicated that appellant complained of stress and anxiety at work and also had high blood pressure.

In reports dated August 22 and September 11, 2013, Dr. Kristina Shurtleff, a Board-certified family practitioner, diagnosed generalized anxiety disorder, benign essential hypertension, chest pain, and pain in joint, multiple sites. She indicated that appellant was seen at the emergency room on August 2, 2013, was given medicine to drop her blood pressure, and then released after two hours when she felt better. Dr. Shurtleff stated that appellant was having chest pains and cried for no reason with the stress from her work.

By decision dated October 4, 2013, OWCP denied appellant's claim on the basis that the medical evidence failed to establish a causal relationship between his conditions and the August 2, 2013 employment incident.

On June 18, 2014 appellant, through her representative, requested reconsideration and submitted a May 1, 2014 report from Dr. Daniel Shiode, appellant's clinical psychologist, who diagnosed post-traumatic stress disorder. Dr. Shiode indicated that appellant was trapped in an elevator at work on August 2, 2013. Appellant perceived the incident as being potentially life threatening and was terrified by what occurred. Dr. Shiode indicated that appellant developed several signs and symptoms indicative of post-traumatic stress disorder, including exposure to an extreme stressor that involved actual or threatened death or injury, response involving intense fear, helplessness or horror, and symptoms including intrusive flashbacks, avoidance behaviors, and increased arousal symptoms. He opined that appellant met "all of these criteria with

reference to the elevator incident" and noted that there was "no indication of preexisting psychological condition, or any prior history of trauma that would account for the development of her symptoms."

By decision dated September 16, 2014, OWCP denied modification of the October 4, 2013 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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[3] was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[4]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. A fact of injury determination is based on two elements. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury. An employee may establish that the employment incident occurred as alleged but fail to show that his or her condition relates to the employment incident.[5]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.[6]

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[2] *Id.*

[3] OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

[4] *See T.H.*, 59 ECAB 388 (2008). *See also Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[5] *Id. See Shirley A. Temple*, 48 ECAB 404 (1997); *John J. Carlone*, 41 ECAB 354 (1989).

[6] *Id. See Gary J. Watling*, 52 ECAB 278 (2001).

ANALYSIS

OWCP has accepted that the employment incident of August 2, 2013 occurred at the time, place, and in the manner alleged. The issue is whether appellant's stress-related emotional conditions resulted from the August 2, 2013 employment incident. The Board finds that appellant did not meet her burden of proof to establish a causal relationship between the conditions for which compensation is claimed and the employment incident.

In a report dated May 1, 2014, Dr. Shiode diagnosed post-traumatic stress disorder. He indicated that appellant was trapped in an elevator at work on August 2, 2013. Appellant perceived the incident as life threatening and was terrified by what occurred. Dr. Shiode indicated that appellant developed several signs and symptoms indicative of post-traumatic stress disorder, including exposure to an extreme stressor that involved actual or threatened death or injury, a response involving intense fear, helplessness or horror. He identified symptoms including intrusive flashbacks, avoidance behaviors, and increased arousal symptoms. Dr. Shiode opined that appellant met "all of these criteria with reference to the elevator incident" and noted that there was "no indication of preexisting psychological condition, or any prior history of trauma that would account for the development of her symptoms."

Dr. Shiode's report did not contain medical rationale explaining the mechanism of how appellant's post-traumatic stress disorder was caused or aggravated by being trapped in a disabled elevator for 20 minutes. Although he noted that her condition occurred after being trapped in an elevator at work, such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are otherwise unsupported by adequate medical rationale explaining how this physical activity actually caused the diagnosed conditions.[7] Thus, the Board finds that the report from Dr. Shiode is insufficient to establish that appellant sustained an employment-related injury in the performance of duty on August 2, 2013.

In her reports, Dr. Shurtleff diagnosed generalized anxiety disorder, benign essential hypertension, chest pain, and pain in joint, multiple sites. She indicated that appellant was seen at the emergency room on August 2, 2013, was given medicine to drop her blood pressure, and then released after two hours when she felt better. Dr. Shurtleff stated that appellant experienced chest pains and cried for no reason with the stress from her work. The Board finds that Dr. Shurtleff did not provide medical rationale establishing that being trapped in a disabled elevator for 20 minutes on August 2, 2013 caused or aggravated the diagnosed conditions. Thus, the Board finds Dr. Shurtleff's reports are of limited probative value and fail to establish appellant's claim.

In his reports, Dr. Tahir diagnosed anxiety and benign essential hypertension and indicated that appellant complained of stress and anxiety at work. The report did not contain an opinion from him about whether appellant's complaints were work related. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's

[7] *See K.W.*, Docket No. 10-98 (issued September 10, 2010).

condition is of limited probative value on the issue of causal relationship.[8] Thus, appellant has not met her burden of proof with this submission.

In support of her claim, appellant submitted hospital records dated August 2, 2013 from her visit to the emergency department at Boulder City Hospital. These documents are not competent medical opinion evidence because they do not contain rationale by a physician relating appellant's injury to her employment.[9] The Board finds that appellant did not meet her burden of proof with these submissions.

Because appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the August 2, 2013 employment incident, she has failed to meet her burden of proof to establish a claim.

On appeal, appellant's representative contends that the medical evidence submitted is sufficient to establish that appellant sustained post-traumatic stress disorder as a result of being trapped alone in a dark disabled elevator with no means of communication with the outside world. He requests that OWCP's decision be set aside and the case remanded for further development until such time as it is in posture for a *de novo* decision on appellant's claim. As noted, appellant bears the burden of proof to establish that her conditions are causally related to the employment incident.[10] Based on the findings and reasons stated above, the Board finds the representative's arguments are not substantiated.

The Board also notes that the employing establishment issued appellant a Form CA-16 on August 2, 2013 authorizing medical treatment. The Board has held that where an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim.[11] Although OWCP denied appellant's claim for an injury, it did not address whether she is entitled to reimbursement of medical expenses pursuant to the Form CA-16. Upon return of the case record, OWCP should further address this issue.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

[8] *See C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[9] *See* 5 U.S.C. § 8101(2). Section 8101(2) of FECA provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." *See also Paul Foster*, 56 ECAB 208, 212 n.12 (2004); *Joseph N. Fassi*, 42 ECAB 677 (1991); *Barbara J. Williams*, 40 ECAB 649 (1989).

[10] *See supra* note 3-7.

[11] *See D.M.*, Docket No. 13-535 (issued June 6, 2013). *See also* 20 C.F.R. §§ 10.300, 10.304.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that her stress conditions are causally related to an August 2, 2013 employment incident, as alleged. On return of the record, OWCP should consider the Form CA-16 issued in this case.

ORDER

IT IS HEREBY ORDERED THAT the September 16, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 1, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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