

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

_____	)	
<b>L.M., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 24-0654</b>
	)	<b>Issued: July 25, 2024</b>
<b>U.S. POSTAL SERVICE, MORGAN PARK</b>	)	
<b>POST OFFICE, Chicago, IL, Employer</b>	)	
_____	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On May 31, 2024 appellant filed a timely appeal from April 2, 8, and 15, 2024 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met her burden of proof to establish disability from work for the periods February 19 through March 2, 2024, and March 4 through 7, 2024 causally related to her accepted December 27, 2023 employment injury.

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the April 15, 2024 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **FACTUAL HISTORY**

On December 28, 2023 appellant, then a 33-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 27, 2023 she experienced anxiety and stress after she witnessed a driver with a gun shoot multiple rounds in close proximity to where she was delivering mail while in the performance of duty. She stopped work on December 27, 2023. OWCP accepted appellant's claim for acute stress reaction and post-traumatic stress disorder, unspecified.<sup>3</sup>

On February 15, 2024 Dr. Kelley noted appellant's persistent symptoms and intrusive thoughts relating to the accepted December 27, 2023 employment injury. He diagnosed acute stress and post-traumatic stress disorder and released appellant to part-time duty on February 16, 2024, five days a week, four hours a day, working inside the employing establishment. In a duty status report (Form CA-17) of even date, Dr. Kelley diagnosed acute stress and post-traumatic stress disorder and noted that appellant could perform part-time work. In an attending physician's report (Form CA-20) dated February 15, 2024, he diagnosed acute stress and post-traumatic stress disorder and checked a box marked "Yes" indicating that appellant's condition had been caused or aggravated by an employment activity. Dr. Kelley noted that appellant was totally disabled from December 28, 2023 through February 15, 2024 and could return to work on February 16, 2024 five days a week, four hours a day, working inside the employing establishment.

On February 23, 2024 appellant filed a claim for compensation (Form CA-7) for disability from work for the period February 19 through 23, 2024.

In a report of work status (Form CA-3) dated February 26, 2024, OWCP noted that appellant returned to part-time modified-duty work on February 22, 2024 pursuant to a medical report dated February 15, 2024.

In development letters dated February 29, and March 5 and 14, 2024, OWCP informed appellant of the deficiencies of her claim for compensation. It advised her of the type of medical evidence required and afforded her 30 days to submit the requested evidence.

On March 4, 2024 appellant filed a Form CA-7 for disability from work for the period February 24 through March 2, 2024.

On March 8, 2024 appellant filed a Form CA-7 for disability from work for the period March 4 through 7, 2024.

OWCP received additional evidence. In reports dated February 21 and March 8, 2024, Dr. Kelley noted appellant's symptoms of anxiety, hypervigilance, flash backs, and intrusive thoughts related to the accepted December 27, 2023 employment injury. He diagnosed acute stress

---

<sup>3</sup> OWCP received an authorization for examination and/or treatment (Form CA-16) providing a date of injury of December 27, 2023, and describing that appellant witnessed a shooting while delivering mail. In an attending physician's report, Part B of the Form CA-16, dated January 3, 2024, Dr. Daniel Kelley, a clinical psychologist, related that appellant experienced anxiety and trauma on December 27, 2023 after witnessing a shooting while delivering mail. He diagnosed acute stress and post-traumatic stress disorder.

and post-traumatic stress disorder and released appellant to part-time work on February 16, 2024, five days a week, four hours a day, working inside the employing establishment.

By decision dated April 2, 2024, OWCP denied appellant's claim for wage-loss compensation, finding that the medical evidence of record was insufficient to establish disability from work for the period February 19 through 23, 2024 causally related to the accepted December 27, 2023 employment injury.

By decision dated April 8, 2024, OWCP denied appellant's claim for wage-loss compensation, finding that the medical evidence of record was insufficient to establish disability from work for the period February 24 through March 2, 2024 causally related to the accepted December 27, 2023 employment injury.

OWCP received additional evidence. In a Form CA-20 dated April 10, 2024, Dr. Kelley diagnosed acute stress and post-traumatic stress disorder and checked a box marked "Yes" indicating that appellant's condition had been caused or aggravated by an employment activity. He noted that appellant was totally disabled from December 28, 2023 through February 15, 2024 and could return to work on February 16, 2024 pursuant to the same restrictions. In a Form CA-17 of the same date, Dr. Kelley diagnosed acute stress and post-traumatic stress disorder and noted appellant's restrictions remained unchanged.

By decision dated April 15, 2024, OWCP denied appellant's claim for wage-loss compensation, finding that the medical evidence of record was insufficient to establish disability from work for the period March 4 through 7, 2024 causally related to the accepted December 27, 2023 employment injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of their claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> For each period of disability claimed, the employee has the burden of proof to establish that they were disabled from work as a result of the accepted employment injury.<sup>6</sup> Whether a particular injury causes an employee to be disabled from employment and the duration of that disability are medical issues, which must be proven by a preponderance of the reliable, probative, and substantial medical evidence.<sup>7</sup> Findings on examination are generally needed to support a physician's opinion that an employee is disabled from work.<sup>8</sup>

---

<sup>4</sup> *Supra* note 1.

<sup>5</sup> *See S.F.*, Docket No. 20-0347 (issued March 31, 2023); *M.C.*, Docket No. 18-0919 (issued October 18, 2018); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *S.B.*, Docket No. 23-0999 (issued March 28, 2024); *William A. Archer*, 55 ECAB 674 (2004).

<sup>7</sup> *V.H.*, Docket No. 18-1282 (issued April 2, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, *id.*

<sup>8</sup> *G.P.*, Docket No. 23-1133 (issued March 19, 2024); *Dean E. Pierce*, 40 ECAB 1249 (1989).

The term “disability” is defined as the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of the injury.<sup>9</sup> Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.<sup>10</sup> An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.<sup>11</sup>

The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.<sup>12</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period February 19 through March 2, 2024, and March 4 through 7, 2024 causally related to the accepted December 27, 2023 employment injury.

In reports dated February 15 and 21, and March 8 and 15, 2024, Dr. Kelley diagnosed acute stress and post-traumatic stress disorder and released appellant to part-time work on February 16, 2024, five days a week, four hours a day, working inside the employing establishment. Similarly, in Forms CA-20 dated February 15, March 15, and April 10, 2024, he diagnosed acute stress and post-traumatic stress disorder and checked a box marked “Yes” indicating that appellant’s condition had been caused or aggravated by an employment activity. Dr. Kelley noted that appellant was totally disabled from December 28, 2023 through February 15, 2024 and could return to work on February 16, 2024 under the same restrictions. In CA-17 forms of even date, he diagnosed acute stress and post-traumatic stress disorder and continued appellant’s work restrictions. However, the Board notes that these reports are of no probative value because Dr. Kelley did not provide an opinion that appellant was disabled from work during the claimed period causally related to the accepted emotional conditions.<sup>13</sup> Rather, Dr. Kelley returned appellant to work part time with restrictions. Therefore, these reports are insufficient to establish her claim.

As the medical evidence is insufficient to establish disability from work for the period February 19 through March 2, 2024, and March 4 through 7, 2024 causally related to the accepted

---

<sup>9</sup> 20 C.F.R. § 10.5(f); *S.T.*, Docket No. 18-0412 (issued October 22, 2018); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

<sup>10</sup> *G.T.*, Docket No. 18-1369 (issued March 13, 2019); *Robert L. Kaaumoana*, 54 ECAB 150 (2002).

<sup>11</sup> *See* 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

<sup>12</sup> *See B.K.*, Docket No. 18-0386 (issued September 14, 2018); *Amelia S. Jefferson*, *supra* note 7; *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001); *see also C.S.*, Docket No. 17-1686 (issued February 5, 2019).

<sup>13</sup> *See F.S.*, Docket No. 23-0112 (issued April 26, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

December 27, 2023 employment injury, the Board finds that appellant has not met her burden of proof.

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.

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish disability from work for the period February 19 through March 2, 2024, and March 4 through 7, 2024 causally related to the accepted December 27, 2023 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 2, 8, and 15, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 25, 2024  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board