

REVIEW DECISION

Re: Review Reference #: R0239077
Board Decision under Review: April 26, 2018

Date: December 20, 2018

Review Officer: Sonja Okada

Introduction and Background

In May 2017, the worker was diagnosed with Post-Traumatic Stress Disorder ("PTSD"), as a result of performing volunteer search and rescue duties.

On April 26, 2018, the Workers' Compensation Board ("Board"), which operates as WorkSafeBC, accepted the worker's claim for PTSD, and provided health care benefits for this condition. However, it also decided that the worker was not entitled to wage loss benefits for the PTSD. Finally, it denied the worker's claim for Major Depressive Disorder ("MDD").

The worker, represented by legal counsel, requests a review of the decision denying wage loss benefits for the PTSD condition. The worker's representative confirmed in the November 5, 2018 submissions that the worker does not dispute the Board's acceptance of PTSD and health care benefits, or the denial of MDD. The employer was notified but is not participating in the review.

Section 96(6) of the *Workers Compensation Act* ("Act") gives me the authority to conduct this review. The relevant policy is found in the *Rehabilitation Services and Claims Manual*, Volume II.

The standard of proof that applies to this review is the balance of probabilities as modified by section 99(3) of the *Act*. Section 99(3) provides that where the evidence supporting different findings on an issue is evenly weighted, the issue must be resolved in a manner that favours the worker.

Issue

Is the worker entitled to wage loss benefits for his accepted PTSD condition?

Reasons and Decision

Sections 29 and 30 of the *Act* provide for the payment of wage-loss benefits when a worker is temporarily totally (section 29) or partially (section 30) disabled from working due to a compensable injury.

As noted above, in the April 26, 2018 decision under review, the Board accepted the worker's claim for PTSD associated with his volunteer search and rescue work. However, it denied entitlement to wage loss benefits for the PTSD. The

Board determined that the worker was not disabled from working by the PTSD, but rather, the PTSD was aggravated by MDD that was associated with the worker's other employment, as a millwright.

In order to decide the issue of entitlement to wage loss benefits in this case, I must determine whether there is sufficient evidence to support that the worker was temporarily disabled from working by his PTSD. In doing so, I have therefore considered evidence concerning the development of the PTSD and the MDD, in relation to both of the worker's jobs.

I have found of particular assistance a psychological assessment report dated March 20, 2018. The assessing psychologist, Dr. J, examined the worker's 40 year history of search and rescue work, as well as his personal life, and more recent issues associated with his millwright job. She noted that, according to medical records, the worker began to exhibit anxiety symptoms in 2014. Dr. J related these symptoms with traumatic incidents the worker witnessed over several years with search and rescue, additional family stressors, and long-term difficulty with a colleague at the mill.

The evidence shows that from May through August 2016, the worker was impacted by several significant events in his volunteer search and rescue work and his full time paid position at the mill. On May 19, 2016, while working at the mill, the worker fell from a height of approximately 18 feet and sustained physical injuries. Shortly after the fall injury, the worker resumed work, both at the mill and in search and rescue. Dr. J noted that after the fall injury, the worker began to exhibit worse psychological symptoms, including fear of falling and increased social anxiety. The worker felt that he was being bullied and harassed at the mill, which resulted in what he described as a breakdown, on June 16, 2016. The worker did not return to his work at the mill after that date.

After leaving his job at the mill, the worker continued to work at his search and rescue job. However, on August 31, 2016, he was involved in a specific traumatic incident while carrying out his search and rescue duties. Immediately following the incident, the worker returned his equipment and stopped carrying out any duties for search and rescue. In Dr. J's view, this final incident seemed to "tip the scale" of the worker's PTSD symptoms.

Dr. J diagnosed the worker with both MDD and PTSD. She associated the MDD primarily with psychological issues that developed during his millwright job, and noted that the MDD symptoms began to subside as soon as the worker left his job at the mill. She acknowledged that some of the symptoms overlap in PTSD and MDD. However, in her opinion, the direct causal factor in the development of the worker's PTSD was his longstanding and persistent exposure to traumatic events while carrying out search and rescue duties. I take this to mean that in Dr. J's opinion, the worker's PTSD either independently led to his disability from

work, regardless of the MDD or other issues, or the PTSD significantly contributed to the worker's level of disability.

I place significant weight on Dr. J's report, as her diagnoses are consistent with the earlier diagnoses from other health care providers, and her discussion of the worker's relevant history corresponds with the evidence on file. Based on my consideration of the file evidence, including Dr. J's report, I am satisfied that the worker's accepted PTSD was, at a minimum, a significant contributor to his disability from search and rescue work.

I am further satisfied that the PTSD disabled the worker from working in search and rescue as of August 31, 2016. However, I am unable to conclude that the worker was disabled from working by his PTSD prior to that date. I note that in Dr. J's opinion, the May 2016 fall injury did affect the worker psychologically, but he was able to continue in both of his jobs after that. The medical evidence supports that the worker's feeling of being bullied and harassed at the mill, and possibly the fall injury, caused his MDD symptoms to escalate. Ultimately it was the MDD that caused him to leave his job as a millwright on June 16, 2016. At the same time, though, he continued with his search and rescue duties. He did not become disabled from work in search and rescue until the traumatic event on August 31, 2016, when his PTSD escalated.

I note that while the Board accepted the physical injury related to the worker's fall on May 19, 2016, it has not considered any psychological injuries, and potential benefits flowing from such injuries, on that claim. While that matter is not before me in this review, it is open to the worker to contact the Board and request adjudication of additional injuries, including psychological injuries, related to the May 19, 2016 fall injury.

The next question I must consider is whether the worker's condition was temporary or instead stabilized as permanent. Policy #34.54, *When is the Worker's Condition Stabilized*, provides that a worker's condition will be deemed to have stabilized where there is little potential for significant improvement within the next 12 months, or where any potential changes are in keeping with normal fluctuations in the condition.

In this case, the medical evidence shortly after August 2016 shows that the worker's physician was actively treating the worker for PTSD, diagnosing and prescribing medications, and referring him for psychiatric treatment. According to Dr. J, the medical evidence shows that the worker's PTSD symptoms had been decreasing in intensity since August 2016, and with additional time and treatment, he would hopefully continue to make gains. This shows that the worker's physician anticipated that the worker's PTSD symptoms would improve, and in fact, according to Dr. J, they did and were continuing to improve. I am satisfied that the worker's PTSD was temporary immediately following his last day of work with the employer, on August 31, 2016. Therefore, because of his temporary disability

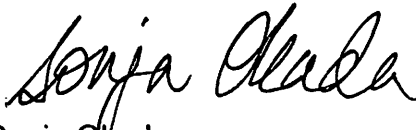
from PTSD, the worker was unable to work in any capacity as of August 31, 2016. The Board will need to consider the extent of his entitlement as of that date.

In determining the extent of wage-loss benefits, the Board will need to establish the rate of compensation (wage rate) pursuant to section 33 of the *Act*. However, as noted above, the worker was not working as a millwright as of August 31, 2016, and it appears that he was not earning any income at that time. The Board will need to consider the various provisions related to establishing the worker's wage rate, including section 33.4 of the *Act* which pertains to exceptional circumstances, and section 33.7 of the *Act*, which pertains to a person without earnings.

I allow the worker's request.

Conclusion

As a result of this review, I vary the Board's April 26, 2018 decision to the extent that the worker is entitled to wage loss benefits for temporary total disability related to his accepted PTSD condition, as of August 31, 2016. The Board will need to determine the appropriate wage rate.



Sonja Okada
Review Officer
Review Division