

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 15-058

**BRENDA JOHNSON,
Claimant–Petitioner,**

v.

**FEDERAL EXPRESS and SEDGWICK CMS,
Employer/Third-Party Administrator–Respondent.**

Appeal from a March 16, 2015 Compensation Order on Remand
by Administrative Law Judge Donna J. Henderson
AHD No. 12-359, OWC No. 688463

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
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(Decided July 30, 2015)

Krista N. DeSmyter for the Claimant
Lisa Zelenak for the Employer

Before LINDA F. JORY, HEATHER C. LESLIE, and JEFFREY P. RUSSELL *Administrative Appeals Judges.*

LINDA F. JORY for the Compensation Review Board.

DECISION AND REMAND ORDER

FACTS OF RECORD AND PROCEDURAL HISTORY

The parties do not dispute the following facts of record as outlined in *Brenda Johnson v. Federal Express Corporation*, CRB No. 13-077, AHD No. 12-359, OWC No. 688463 (February 5, 2014)(DRO):

Ms. Brenda Johnson worked for Federal Express Corporation (“FedEx”) for more than 26 years. On January 27, 2012, she was called to a meeting with supervisors. At that meeting, Ms. Johnson was informed that due to company reorganization, the position she had held for more than 10 years was being eliminated; in return, Ms. Johnson was offered a part-time position at a different location.

Ms. Johnson completed her work day that Friday and returned to work the following Monday. The next day, January 31, 2012, Ms. Johnson sought

treatment at Fort Washington Hospital for complaints of headaches, insomnia, and loss of appetite as a result of being “fired.” Ms. Johnson was diagnosed with anxiety and was instructed to contact a crisis response hotline for counseling services.

From February 6, 2012 through June 1, 2012, Ms. Johnson treated with a therapist who diagnosed Ms. Johnson as suffering from adjustment disorder with mixed depression and anxiety from the job “rearrangement and decrease in hours on the job.” Thereafter, Ms. Johnson began treating with a board certified psychiatrist.

On July 3, 2012 at FedEx’s request, Ms. Johnson was examined by Dr. Bruce Smoller, a neuropsychiatric specialist. Dr. Smoller concluded Ms. Johnson’s “reaction to the ‘job termination’ with anger was normal but he opined that her reaction was stronger and more exaggerated.”

Ms. Johnson filed a claim for temporary total disability benefits and medical treatment as a result of her mental-mental injury. Following a formal hearing, an administrative law judge (“ALJ”) denied Ms. Johnson’s request for benefits because her mental-mental injury is not compensable.

Johnson v. Federal Express Corporation, AHD No. 12-359, OWC No. 688463 (May 23, 2013), p. 3.

The Compensation Review Board (CRB) vacated the Compensation Order (CO) issued by the Administrative Hearings Division (AHD) on May 23, 2013 and remanded it to the Administrative Law Judge (ALJ) as the CRB concluded the ALJ did not apply the proper legal test for mental-mental cases. *See Ramey v. Potomac Electric Power Co.*, CRB No. 06-038(R), AHD No. 05-318, OWC No. 576531 (July 24, 2008), *McCamey v. DOES*, 947 A.2d 1191, 1195 (D.C. 2008). The CRB held:

The *Ramey* test does not require unusualness of the event or condition alleged to be the cause of the mental-mental injury nor does it incorporate an exception for business-related personnel actions including but not limited to reorganization, furlough, lay-off, and job elimination; therefore, the ALJ did not properly apply the *Ramey* test to Ms. Johnson’s claim for benefits for a mental-mental injury. The May 23, 2013 Compensation Order is VACATED, and this matter is REMANDED for further consideration consistent with this Decision and Remand Order.

DRO at 7.

As the ALJ who conducted the formal hearing had resigned, an Order to Show Cause issued advising the parties to show cause why the matter could not be decided based on the existing record by another ALJ.

Claimant consented to have the matter decided by a new ALJ based on the existing record and Employer responded that it would object to a new hearing to take Claimant's testimony. The ALJ issued a subsequent order on February 18, 2015 wherein the parties were ordered:

. . . to provide, for the record, evidence of the definition, criterion, and symptoms of these mental disorders from the source of your choice by February 25, 2015. You are ORDERED to serve opposing counsel with your responses and make objections to the other party's exhibit, if any, by March 2, 2015. If no objections are received by March 2, 2015, each part's evidence will be admitted as an exhibit.

According to the Compensation Order on Remand (COR), the ALJ re-opened the record to admit evidence that was identified in the record before the presiding ALJ but not ruled upon, as well as the requested definitions described above. The COR denied in part and granted in part Claimant's claim for relief.

The ALJ concluded:

Claimant has demonstrated by a preponderance of the evidence that she sustained an accidental mental stress injury as a result of the original meeting and her subsequent lay off. The mental stress injury which Claimant sustained was an adjustment disorder with mixed anxiety and depression. Claimant did not sustain PTSD or major depression. Claimant's evidence established that Claimant was disabled from January 30, 2012 through and including July 3, 2012, the date of Claimant's examination by Dr. Smoller. Claimant has failed to prove by a preponderance of the evidence that she continued to be temporarily totally disabled after July 3, 2012. Claimant's claim for causally related medical expenses for her medical treatment related to adjustment disorder with mixed anxiety and depression are causally related to the work-related injury on January 27, 2012. Claimant's diagnoses of PTSD and major depression injuries are denied and any medical treatment for these conditions is denied.

COR at 13.

Claimant appealed, requesting that the CO be reviewed and reversed. Employer opposed Claimant's appeal, asserting the ALJ applied the law correctly and relied on substantial evidence in reaching her conclusions.

ISSUES ON APPEAL

1. Did the ALJ err in re-opening the record for receipt of new evidence?
2. Did the ALJ err in relying on extrinsic evidence not contained in the record, violating Claimant's due process rights to rebut such evidence?

3. Did the ALJ fail to apply the presumption to the causal relationship of the diagnosis of major depression to the work injury?
4. Did the ALJ substitute her own medical opinion to deny the claimed benefits?
5. Did the ALJ err in rejecting the opinion of the treating physician?
6. Did the ALJ err in determining that claimant is not entitled to temporary total disability benefit to the present and contain as a result of her psychological injury.

ANALYSIS¹

Did the ALJ err in re-opening the record for receipt of new evidence?

Claimant does not challenge the ALJ's admission of evidence identified at the formal hearing but not ruled upon by the ALJ as admitted or excluded. As Claimant assert in her response to the ALJ's February 18, 2015 order, that Order failed to cite any unusual circumstances warranting the submission of additional evidence outside of the closing of the record, relying on *Jones v. DOES*, 584 A.2d 17, 19 (1990) (*Jones*).

Employer responded that the unusual circumstance that warrants the reopening of the record is:

that an entirely new Judge is asked to make a decision on a case, on remand, previously handled by another Judge. Judge Henderson did not have the benefit of hearing the original testimony or questioning the parties or attorney about the exhibits being presented at the hearing. As a result, she cannot be penalized for now asking for information that she could have asked for at the original formal hearing, because she could not have asked for that information at the hearing, because she was not present to do so.

Employer's Brief at 15, 16.

We do not agree with Employer's interpretation that a re-assignment of a remand is an unusual circumstance or its position that Claimant had the opportunity to have the matter retried in its entirety. However, we also do not agree that an ALJ must demonstrate unusual circumstances for a *sua sponte* re-opening of the record.

D.C. Code § 32-1525 (a) provides:

¹ The scope of review by the Compensation Review Board (CRB) and this Review Panel as established by the Act and as contained in the governing regulations is limited to making a determination as to whether the factual findings of the Compensation Order are based upon substantial evidence in the record, and whether the legal conclusions drawn from those facts are in accordance with applicable law. D.C. Code § 32-1521.01(d)(2)(A). "Substantial evidence", as defined by the District of Columbia Court of Appeals, is such evidence as a reasonable person might accept to support a particular conclusion. *Marriott Int'l. v. DOES* 834 A.2d 882 (D.C. 2003). Consistent with this scope of review, the CRB and this Panel are bound to uphold a Compensation Order that is supported by substantial evidence, even if there is also contained within the record under review substantial evidence to support a contrary conclusion, and even where the reviewing authority might have reached a contrary conclusion. *Marriott*, 834 A.2d at 885.

In making an investigation or inquiry or conducting a hearing the Mayor shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter, but may make such investigation or inquiry or conduct such hearing in such manner as to best ascertain the rights of the parties.

As neither party in the instant matter was requesting the ALJ admit evidence post hearing, Claimant's reliance on *Jones* is misplaced. The CRB has held the ALJ has broad discretion in conducting the formal hearing and the admission and exclusion of evidence, and that discretion must be administered fairly and not in an arbitrary or capricious fashion. *Goodwin v. Starbucks Coffee Co.*, CRB No. 08-215, AHD No. 08-163, OWC No. 643564 (December 11, 2008). We conclude the ALJ appropriately utilized her broad discretion fairly in re-opening the record to allow both parties to provide evidence related to the definition of the claimed conditions that the ALJ did not believe were in the record.

Did the ALJ err in relying on extrinsic evidence not contained in the record, violating Claimant's due process rights to rebut such evidence?

Claimant asserts that the ALJ took administrative notice of definitions in a medical reference guide and therefore she should have had the opportunity to rebut a material fact that is being officially noticed, citing *Renard v. DOES*, 673 A.2d 1274 (D.C. 1996) (*Renard*) and *Majors v. WMATA*, CRB No. 10-060, AHD No. 10-139, OWC No. 657877 (Jan. 26, 2012)(*Majors*) .

Employer asserts that the ALJ's decision does not "rest on" any judicial notice the ALJ may have taken from the *Dorland's Illustrated Medical Dictionary (Dorland's)* definitions and that the ALJ used the *Dorland's* definitions for comparison. Employer further asserts that both parties were given the opportunity to provide their own definitions of the disorders prior to the ALJ making her decision.

We agree with Employer and note that arguing that the record should not be re-opened to allow both parties to provide their definition and then arguing that she was deprived of her due process right is somewhat incongruous.

We further find Claimant's reliance on *Renard* and *Majors* to be misplaced. *Renard* involved a hearing examiner who refused to take administrative notice of the agency's own claim file. The Court found an agency could take administrative notice of its own claim file as long as the agency notifies the parties that a material fact is being officially noticed so that the parties have an opportunity to rebut that fact. Referring to a *Dorland's* definition is not the equivalent of officially noticing a material fact.

This matter is also distinguished from the *Majors* case. *Majors* involved the ALJ's reliance on medical journal articles which neither party proffered as an exhibit. The CRB concluded "a journal article is a source that reasonably can be questioned, especially on the issue of causal relationship in a particular case". *Majors*, supra at 4.

It is not uncommon for ALJs or for the CRB to reference medical texts such as *Dorland's* to illuminate medical terms that are not necessarily known to the lay reader. *Sellers v. WMATA*, CRB No. 13-041, AHD No. 12-522, OWC No. 692386 (October 17, 2013). We find no error on the part of the ALJ in her comparison of the definitions of Drs. Brody and Smoller with the definitions the ALJ found in *Dorland's*.

Did the ALJ fail to apply the presumption to the causal relationship of the diagnosis of major depression to the work injury?

Claimant alleges the Compensation Order failed to correctly apply the second step of the burden-shifting analysis framework for the presumption of compensability to the diagnosis of Major Depressive Disorder. Specifically Claimant asserts:

There is no commentary whatsoever within the medical opinions presented in this case that is specific and comprehensive enough to sever the causal relationship of the major depression from which Ms. Johnson suffers and her work injury of January 27, 2012.

Employer asserts the ALJ applied the presumption to the diagnosis of major depression but she elected to “go with the opinion of the IME doctor over Dr. Brody’s”. Employer’s response fails to discuss whether Employer had properly rebutted the presumption which, in this Panel’s view, highlights the fact that the ALJ improperly weighed the evidence prematurely.

After setting forth the *Ramey* standard for invoking the statutory presumption, (“[b]y showing a psychological injury and actual work place conditions or events which could have caused or aggravated the psychological injury”), the ALJ determined Claimant had invoked the presumption.

In her analysis as to whether Employer rebutted the invoked presumption, the ALJ separated the diagnoses of Adjustment Disorder, Post-Traumatic Stress Disorder and Major Depressive Disorder into two sections entitled “The Diagnosis of an Adjustment Disorder” and “The Diagnosis of Post Traumatic Stress Disorder”. The ALJ determined that Dr. Smoller’s diagnosis of “adjustment reaction” was not specific or comprehensive enough to rebut the presumption and therefore Claimant’s adjustment disorder is compensable. We find no error with the ALJs approach and analysis with regard to the adjustment disorder and we accordingly affirm the ALJ’s conclusion.

With regard to the Post Traumatic Stress Disorder, the ALJ held:

The presumption of compensability also attaches to Dr. Brody’s diagnoses of PTSD and major depressive disorder. *Whitaker v. DOES*, 668 A.2d 844 (D.C 1995). Dr. Brody diagnosed Claimant with PTSD and major depression on her first visit on June 7, 2013. CE 3, p. 35. Dr. Smoller opined that ‘This definition [PTSD] is not met by this particular incident and the symptoms revolve around anger rather than a posttraumatic stress disorder.’ EE 3, Dr. Smoller addendum dated October 2, 2012. The definition of PTSD according to *Dorland's* is ‘an

anxiety disorder caused by exposure to an intensely traumatic event.’ The definition contained in *Dorland’s* lists some of the ‘Terms formerly used for disorders of this type *include gross stress reaction, shell shock, and combat (or battle or war) exhaustion, fatigue or neurosis.*’ *Dorlands* at 531. The meeting in which Claimant and six other employees were informed in a conference room that the Operation Agent position was being eliminated did not rise to the level that it could be characterized as an intensely traumatic event. Dr. Smoller’s opinion is sufficiently ‘substantial and comprehensive’ to rebut the presumption. *Washington Post v. DOES (Reynolds)*, 852 A.2d 909, 914 (D.C. 2004), citing *Safeway Stores, Inc. v. DOES*, 806 A.2d 1214, 1220-1221 (D.C. 2002). The presumption falls out of the case, the burden of proof is placed on Claimant to demonstrate, by a preponderance of the evidence, that she suffers from PTSD as a result of the meeting at which she was told that her job was being eliminated. The evidence shall be weighed without the benefits of the presumption. *Reynolds* at 911.

COR at 6.

Dr. Smoller’s report failed to discuss Dr. Brody’s diagnosis of major depression opinion and the ALJ failed to discuss whether Employer rebutted the presumption with respect to that condition, which, the ALJ did not address with regard to Employer’s burden to rebut. Instead the ALJ proceeded to weigh the evidence on both the diagnosis of PTSD and major depression. We cannot affirm the ALJ’s conclusion that Claimant did not sustain major depression because the ALJ failed to make a determination as to whether the Employer submitted evidence to rebut the presumption that the ALJ determined was invoked with regards to the major depression.

After the explanation by the ALJ as to why she rejected Dr. Brody’s opinion that Claimant suffers from PTSD, the ALJ addressed Dr. Brody’s major depression diagnosis:

Although Dr. Brody noted that he also diagnosed Claimant with major depressive disorder; however, he failed to provide a definition of that condition. CE 6. *Dorland’s* defines major depressive disorder as “a mood disorder characterized by the occurrence of one or more major depressive episodes”. *Dorland’s* at 530. A major depressive episode is defined as ‘a period of daily and day long depressed mood or loss of interest or pleasure in virtually all activities . . . Also present is some combination of the following symptoms: altered appetite, weight or sleep patterns, psychomotor agitation or retardation, diminished capacity for thinking, concentration or decisiveness, lack of energy and fatigue, feelings of worthlessness, self-reproach, or inappropriate guilt, recurrent thoughts of death or suicide and plans or attempts to commit suicide.’ *Dorlands* at 610. Dr. Brody diagnosed Claimant with major depression but his treatment notes are very sketchy and do not mention altered appetite, weight or psychomotor agitation or retardation, diminished capacity for thinking, concentration or decisiveness but, like the report of Dr. Smoller, Dr. Brody’s notes frequently mention Claimant’s anger at the loss of her job.

Contrary to Dr. Brody's diagnosis of major depression, Dr. Smoller specifically notes that Claimant was 'well-groomed and dressed' she had no difficulty in finding words or concentration; her tone of voice was normal in cadence, quality, intonation, tone and timber, all questions were answered 'appropriately and without lag time' her rhythm of speech was maintained but pressured and angry,' she had no difficulty with her memory and her thought was 'logical, coherent and goal directed.' EE 2 p. 13. Dr. Smoller did not diagnose Claimant with major depression but diagnosed Claimant with an adjustment disorder with anxious features versus normal reaction to job loss' and noted that it was 'characterized mostly by having 'mixed anxiety and depression' but this diagnosis is not 'major depression.' CE 2. P. 14 and 13. I find that the diagnosis of Dr. Smoller and Ms. Patricia Carter to be correct. I reject Dr. Brody's diagnosis of major depression and find that it is not causally related to the incident on January 27, 2012.

COR at 9.

Significantly, the ALJ failed to address whether Dr. Smoller's IME report met the *Reynolds*² rebuttal standard with regard to the major depression diagnosis and she appears to have weighed the evidence to determine if Claimant established by a preponderance of evidence that she has suffered a work related depression. We must reverse the ALJ's conclusion as it is not in accordance with the law. Upon remand the ALJ should consider that the CRB in *Shipman v. Fresenius Medical Care Holding*, CRB No. 06-13, AHD No. 05-103A, OWC No. 603796 (January 11, 2006), held negative evidence alone is not sufficient to rebut the presumption, citing *Bobby Brown v. DOES*, 700 A.2d 787 (1997).

Did the ALJ substitute her own medical opinion to deny the claimed benefits?

Claimant asserts the ALJ substituted her own medical opinion with regard to both the diagnoses of Post-Traumatic Stress Syndrome (PTSD) and major depression. With regard to Dr. Brody's PTSD, the only physician who has diagnosed claimant with PTSD, Claimant asserts:

The ALJ concluded that Dr. Brody's definition of adjustment disorder was 'contrary' to a definition she found in a medical dictionary and 'contrary' to Dr. Smoller's definition. CO at 8. She went on to conclude that Dr. Brody's definition of [PTSD] was 'not consistent' with a definition she found in a medical dictionary and to Dr. Smoller's definition. How such a definition was 'contrary' or 'not consistent' would require a medical opinion and how Dr. Smoller's definitions more closely comport with a medical dictionary's description, as if such a dictionary definition was more authoritative than an expert's opinion, is not explainable in the Compensation Order which was not authored by a medical professional. Further the ALJ's conclusion that "mixed anxiety and depression' is

² It is well settled now that employer's evidence is sufficient to rebut the presumption when it is rendered by a qualified independent medical expert who, having examined the employee and reviewed the medical records, and renders an unambiguous opinion that the work injury no longer contributes to the disability. *Washington Post v. District of Columbia Dep't of Employment Services and Raymond Reynolds, Intervenor*, 852 A.2d 909 (D.C. 2004).

not the same as major depression' is a medical conclusion not supported by a medical opinion in the record. CO at 9.

Claimant's Brief at 11.

Employer responds that the ALJ relied on Dr. Smoller's definition and explanation of PTSD and used that definition and explanation to apply the facts to this particular case based upon Dr. Smoller's own expert conclusion that the Claimant did not suffer from post-traumatic stress disorder. Employer further states:

Dr. Smoller explains what an intensely traumatic event is in his report, 'The usual trauma for post-traumatic stress disorder include airplane crashes, robberies with a threat of death, severe crashes, severe fires and the like.' EE 6 at 2.

Employer's Brief at 21.

We note that Dr. Smoller referred to the event in question as "This is usually a sudden unanticipated catastrophic event". EE 6 at 1.

In that the ALJ is free to draw any reasonable inference from the evidence presented, this Panel discerns no reason to disturb the ALJ's finding that Claimant was not exposed to a catastrophic event that could lead to PTSD. *See George Hyman Constr. Co. v. DOES*, 498 A.2d 563, 566 (D.C. 1985).

Inasmuch as the COR is being remanded to re-apply the presumption to the diagnosis of major depression, we need not address Claimant's assertion that the ALJ substituted her own medical opinion on Claimant's alleged depression.

Did the ALJ err in determining that claimant is not entitled to temporary total disability benefits to the present and contain as a result of her psychological injury? Did the ALJ err in rejecting the opinion of the treating physician?

We combine these two remaining alleged errors as the ALJ has clearly rejected the opinion of Dr. Brody, the treating physician who has determined claimant remains unable to work.

Claimant asserts the ALJ provided several faulty reasons for rejecting the opinion of Dr. Brody, Claimant's treating physician. Claimant asserts also the ALJ's statement that Dr. Brody's diagnoses are not based on a complete understanding of Claimant's circumstances and again refers to the ALJ's reliance on *Dorland's* definitions, specifically that Dr. Brody did not describe an "intensely traumatic event". Claimant asserts, and we do not disagree, that the ALJ held Dr. Brody to a higher standard than the Dr. Smoller who Claimant asserts "conceded that he has no idea of what the circumstances of that termination were".

Employer asserts:

The Claimant alleges that [the ALJ's] basis's [sic] for rejecting Dr. Brody's opinion are all flawed. First she states that [the ALJ's] assertion that the termination of the relationship between Claimant and Claimant's initial therapist Ms. Carter was intentional. Claimant states that the Court [should] interpret the note from May 22, 2012 that states that 'therapist felt that additional help beyond therapy was needed for client [to] work through the situation' to mean that the Claimant was being referred to a psychiatrist .without it being specifically stated and as a result the Court should infer the Claimant sought out Dr. Brody.

Even presuming that this was in fact the case, this is not the primary and certainly not the only reason that [the ALJ] gives Dr. Brody's opinion little weight. First [the ALJ] states that Dr. Brody provides a note dated June 1, 2012 stating that the Claimant was currently under his care and was being treated with therapy sessions and psychopharmacologic intervention and that the Claimant will continue to be evaluated for improvement and the need for ongoing care. (Order at 7).

Claimant was not under Dr. Brody's care at that time, and had not been evaluated by him, nor had he prescribed any medications. The Claimant's actual first visit with him is on June 7, 2012 Id. Because Dr. Brody's report is inaccurate the [ALJ] discredits is opinions.

Employer's Brief at 22.

Although any member of the Panel may have reached a different conclusion, this Panel agrees that, the ALJ provided several reasons for rejecting Dr. Brody's opinions and that Dr. Brody's initial report is not only inaccurate, but is identical to his September 1, 2012 report which we note the Claimant relies on to establish her entitlement to wage loss benefits. Dr. Brody stated on June 1, 1012 and on September 1, 2012 the following:

To Whom it May Concern:

I am a Board Certified Psychiatrist and Ms. Brenda Johnson is currently under my care. Additional time-off is requested for Ms. Johnson for an indefinite period of time. She is being treated with therapy sessions and psychopharmacologic intervention. Ms. Johnson will continue to be evaluated for improvement and the need for ongoing care.

CE 3 at 1, 11.

This Panel finds Dr. Brody's duplicative reports not only vague and misleading but as the ALJ found in the CO, the June 1, 2012, is inaccurate. As the ALJ points out in the COR:

In fact, Claimant was not under [Dr. Brody's] care at the time, had not been evaluated by him and had not been prescribed any medications by him June 1, 2012. Claimant's first visit with Dr. Brody was on June 7, 2012. CE 3, p. 35.

COR at 7.

With regard to the nature and extent of Claimant's disability, the ALJ properly determined Claimant established a *prima facie* case that she is incapable of returning to her pre-injury duties and the burden shifted to the Employer. The ALJ noted Dr. Smoller did not provide his opinion that "There are no work restrictions as a result of the psychiatric condition burden" until July 3, 2012 and therefore Claimant established by a preponderance of evidence that she is entitled to wage loss benefits from January 31, 2012 through July 3, 2012. COR at 10.

Noting the preference afforded the treating physician in this jurisdiction, the ALJ explained:

Dr. Brody's [September 22, 2012] report states that Claimant must stay off work because 'the anxiety symptoms, from the PTSD that Ms. Johnson suffers with, are exacerbated by being in circumstances that resemble the original work trauma setting. This means that being back in the work environment would worsen her condition'. Dr. Brody's disability opinion is based upon his diagnosis of PTSD and his apparent belief that any workplace would 'resemble the original work trauma setting.' CE 4, p.1. The allegedly traumatic event was a meeting at which Claimant and six others were laid off was at a table in a room at the FedEx WASA/DCA station. HT 46-48. Claimant's job duties were not performed while sitting around a meeting room. HT 45-46. Dr. Brody's recommendation to keep Claimant off work indefinitely is rejected because it is based on a diagnosis of PTSD and because he fails to explain how future work environments would sufficiently 'resemble the original work trauma setting' to 'aggravate the angry [sic] and subsequently worsen her depression'. CE 4, p.1. The diagnosis of PTSD has been rejected and his method of treating Claimant's condition, i.e. keeping her off all work indefinitely, is also rejected.

COR at 11.

We conclude the ALJ provided sufficient explanation for her rejection of Dr. Brody's opinion regarding both the diagnosis of the alleged PTSD and the nature and extent of Claimant's disability.

CONCLUSION AND ORDER

The Conclusion of Law contained in the March 16, 2015 COR that Claimant has demonstrated by a preponderance of the evidence that she sustained an accidental mental stress injury of adjustment disorder is supported by substantial evidence and is in accordance with the law and **AFFIRMED**. The conclusion that Claimant did not sustain PTSD is in accordance with the law and is supported by substantial evidence and is **AFFIRMED**. The conclusion that Claimant was disabled from January 30, 2012 through and including July 3, 2012 is supported by substantial evidence and is in accordance with the law and is **AFFIRMED**. The Conclusion that Claimant did

not establish entitlement to temporary total disability after July 3, 2012 is supported by substantial evidence in accordance with the law and is **AFFIRMED**.

The denial of medical treatment for the alleged major depression is not in accordance with the law. This matter is **REMANDED** to the ALJ to determine if Employer has met its burden of presenting evidence to rebut the invoked presumption regarding the diagnosis of major depression.

So ordered.