

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAUL M. THOMAS and DEPARTMENT OF THE ARMY,
Fort Ord, Calif.

*Docket No. 96-2069; Submitted on the Record;
Issued October 8, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he sustained an emotional condition causally related to factors of his federal employment.

On January 25, 1994 a traumatic injury claim was filed on behalf of appellant, then a 37-year-old firefighter, alleging that his chest pains, left arm pain, nausea, and high blood pressure were physical manifestations of an emotional condition that appellant had sustained while in the performance of duty. Appellant was hospitalized on January 25, 1994 with a possible heart attack. In a supplemental statement dated March 30, 1994, appellant indicated that his stress was related to work factors that included monitoring the emergency telephone lines, the possibility of base closure, watching fellow employees receiving termination notices, job insecurity, mandatory overtime beginning late 1993, and being responsible for approximately 30,000 acres of property and 7,000 housing units including 100 three-story barracks with 200 servicemen in each barrack. Appellant submitted statements from coworkers corroborating that he was at work when he became ill on January 25, 1994 and a statement by George Wilder, the Chief of Fire Protective Services, indicating that mandatory overtime was required of the current firefighters. Appellant also indicated that he had stress due to his wife's back condition, his daughter's illness that was undiagnosed in 1994, and financial concerns.

In a decision dated May 7, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that he did not establish a causal relationship between his claimed conditions and the specific accepted factors of his federal employment.

The Board has fully reviewed the case record and finds that appellant has not met his burden of proof in establishing that he sustained an emotional condition causally related to factors of his federal employment.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or

adversely affected by factors of his federal employment.¹ To establish his emotional condition claim, appellant must submit: (1) factual evidence identifying factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified factors are causally related to his emotional condition.² The initial question presented in an emotional condition claim is whether appellant has alleged and substantiated compensable factors of employment contributing to his condition. Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. There are distinctions as to the type of situation giving rise to an emotional condition which will be covered under the Federal Employees' Compensation Act. Where disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within the coverage of the Act. On the other hand, the disability is not covered where it results from factors such as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position. Disabling conditions resulting from an employee's feeling of job insecurity or desire for a different job do not constitute personal injury sustained while in the performance of duty within the meaning of the Act.³ When the evidence demonstrates feelings of job insecurity and nothing more, coverage will not be afforded because such feelings are not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of the Act.⁴ In these cases, the feelings are considered to be self-generated by the employee as they arise in situations not related to his assigned duties. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse cannot be considered self-generated by the employee but caused by the employing establishment.⁵

In the present case, appellant identified several noncompensable factors of employment as causes of his stress. Any stress that was the result of a possible base closure or the employee's feelings of job insecurity is not compensable under the Act.⁶ Similarly, appellant's reaction to watching his coworkers receive termination notices added to his feelings of job insecurity and as such is not a compensable factor of employment. However, as the Office found, appellant's duties in monitoring the emergency lines while on duty, his responsibility for property and personnel in connection with his position, and the mandatory overtime that was required between December 1993 and September 1994 are all compensable factors of employment under the Act.

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

² *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Artice Dotson*, 41 ECAB 754 (1990); *Allen C. Godfrey*, 37 ECAB 334 (1986); *Buck Green*, 37 ECAB 374 (1985).

⁵ *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

⁶ *Lillian Cutler*, *supra* note 3.

Therefore, the Office, as part of its adjudicatory function, properly made findings of fact regarding which working conditions were deemed compensable and then referred appellant together with a statement of accepted facts and his medical record to Dr. Paul Anderson, a Board-certified internist and cardiologist, and Dr. Howard M. Greils, a Board-certified psychiatrist, for second opinion examinations.⁷ In a report dated October 31, 1995, Dr. Anderson diagnosed adjustment reaction with mixed emotional features, psychological factors affecting physical condition with headaches, diarrhea, epigastric distress and chest pain but no heart diseases, chronic lumbar strain and resolved ulcers. While he found no malignant job stress and stated that appellant was exposed to normal business personnel actions, Dr. Anderson also indicated that appellant has a nonindustrial psychological condition which reacted to the various stresses at the time of his disability including the illnesses of his wife and child, job uncertainties and long hours of work. In answering whether there was any aggravation and whether the aggravation was permanent or temporary, Dr. Anderson stated that the long hours between December 1993 and September 1994 were stressful to all of the firefighters, but this was temporary as they knew that an eventual resolution would occur. He stated that appellant had no permanent residuals of his condition as evidenced by his return to work and that appellant did not have any heart disease as result of this stressor. Thus, this report does not support appellant's contention that he sustained physical manifestations of work-related stress since Dr. Anderson did not find that any of the diagnosed conditions were related to the identified causal conditions and further found no evidence of malignant job stress.

In a report dated September 22, 1995, Dr. Greils diagnosed adjustment disorder with mixed emotional features. He reported that based on history, appellant was temporarily totally disabled by this condition from January 25 to March 13, 1994 when he returned to work, however, this condition did not arise from any incidents that occurred within the performance of duty. Dr. Greils noted that, while it was possible that the additional hours of overtime caused appellant frustration, appellant was able to work these hours as necessary, and appellant's stressors consisted of his financial problems, the illnesses of his wife and child and the possibility of base closure. The report by Dr. Greils constitutes the weight of the medical evidence with respect to the issue of which psychological factors impacted appellant's health and aggravated the diagnosed conditions. Dr. Greils indicated that appellant's stress and frustration were caused by his financial problems, the illnesses of his wife and child and the possibility of base closure.

⁷ *Norma L. Blank*, 43 ECAB 384 (1992); see also *Gregory J. Meisenburg*, 44 ECAB 527 (1993).

The decision of the Office of Workers' Compensation Programs dated May 7, 1996 is hereby affirmed.

Dated, Washington, D.C.
October 8, 1998

George E. Rivers
Member

David S. Gerson
Member

Michael E. Groom
Alternate Member