U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS P. MALONEY and U.S. POSTAL SERVICE,
POST OFFICE, Staten Island, N.Y.

Docket No. 97-688; Submitted on the Record;
Issued October 23, 1998

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an emotional condition in the performance of duty.

The Board has duly reviewed the case record and finds that appellant has failed to establish that he sustained an emotional condition in the performance of duty.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to her regular or specially-assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.[1] On the other hand, the disability is not covered where it results from such factors 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.[2] Generally, an employee's emotional reaction to an administrative or personnel matter is not compensable, but error or abuse by the employing establishment in an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in an administrative or personnel matter, may afford coverage.[3]

[1] *Dinna M. Ramirez,* 48 ECAB ____ (Docket No. 94-2062, issued January 17, 1997); *see Thomas D. McEuen,* 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

[2] *Michael Ewanichak,* 48 ECAB ___ (Docket No. 95-451, issued February 26, 1977); *Lillian Cutler*, 28 ECAB 125 (1976).

[3] *Norman A. Harris,* 42 ECAB 923 (1991); *Thomas D. McEuen,* 42 ECAB 566 (1991).

On July 9, 1996 appellant, a letter carrier, filed a claim for a traumatic injury, Form CA-1, alleging that on July 9, 1996 he sustained stress as a result of continual harassment by management. Appellant's supervisor stated that appellant was advised to update medical documentation to continue his need for light duty for a work-related knee condition and he claimed he sustained stress because he was asked to comply with the postal policy. Appellant submitted an undated medical note received by the Office on July 29, 1996 in which Dr. S. Frog, a psychiatrist, stated that appellant had been hospitalized at the Brooklyn Veterans Administration Medical Center from July 10 to July 25, 1996 and was being treated for a mental condition. In another medical note dated July 16, 1996, Dr. Aldone Viola stated that appellant had been admitted to the Brooklyn Veterans Administration Medical Center and that there was no determined discharge date.

By letter dated August 5, 1996, an employee of the employing establishment, Paul Lagana, stated that he informed appellant on July 9, 1996 that the new district policy to apply for light duty required that appellant provide proper medical documentation every 30 days and appellant's current light-duty request would expire on July 11, 1996. When he gave appellant the appropriate forms to complete, appellant stated that he did not recognize these forms because they did not have any employing establishment numbers on them. He asked the steward to call the police department to have Mr. Lagana arrested. While waiting for the police to respond to the call, appellant asked to see a doctor because he felt a great deal of stress. A patrolman arrived, made inquiries, and informed appellant that this was a civil, not a criminal matter, and that there were no grounds for a citizen's arrest.

In an undated letter received by the Office on August 9, 1996, the employing establishment controverted the claim.

By letter dated August 15, 1996, the Office informed appellant that more evidence was required to establish his claim. Appellant subsequently submitted documentation consisting of memoranda and his own statement indicating that since he initially had been told he only had to submit a light-duty request form every three months, he found it stressful to have management tell him he had to submit a light-duty request form every month. Appellant also stated that, on May 7, 1996 three of his supervisors refused to sign a medical note from the Veterans Administration to verify that they understood his condition.

Appellant also submitted medical reports from Dr. Thomas J. McGoldrick, a clinical psychologist dated March 15, 1996 and from Albert B. Accettola, a Board-certified orthopedic surgeon, dated June 13, 1996. In his March 15, 1996 report, Dr. McGoldrick stated that appellant was being treated for post-traumatic stress disorder as a result of his experiences in combat as a United States marine during the Vietnam war. He stated that post-traumatic stress disorder was a normal set of responses to horrible, life-threatening experiences such as those experienced in combat and that the symptoms of this syndrome could be made worse by job-related stress. In his June 13, 1996 report, Dr. Accettola addressed appellant's knee condition, stating that appellant had significant swelling, required limited duty and that his condition was permanent.

By decision dated September 21, 1996, the Office denied the claim stating that the evidence failed to establish that the claimed injury occurred in the performance of duty.

In the present case, appellant has not established that management's informing him of the change in policy requiring that light-duty requests be submitted every month instead of every three months constituted harassment. Management's policy relating to the frequency in which light-duty requests must be filed constitutes an administrative matter and as such is not compensable unless appellant shows that management has abused its discretion or acted unreasonably. Appellant has made no such showing as management's new policy of requiring light-duty requests every month is not unreasonable. Since appellant has not established employment factors alleged to have caused or contributed to his claimed condition, it is not necessary to determine if the medical evidence establishes that appellant's emotional condition is causally related to the employment factors.[4] Although the Office advised appellant of the type of medical evidence needed to establish his claim, appellant did not submit evidence responsive to this request. Consequently, appellant has not established that he sustained an emotional condition in the performance of duty.

The decision of the Office of Workers' Compensation Programs dated September 21, 1996 is affirmed.

Dated, Washington, D.C.
October 23, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

[4] *George A. Ross*, 43 ECAB 346, 353 (1991).