

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RICHARD A. TROIANI and U.S. POSTAL SERVICE,  
POST OFFICE, Bellmawr, N.J.

*Docket No. 97-2282; Submitted on the Record;  
Issued April 28, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained an emotional condition in the performance of his federal employment.

The Board has duly reviewed the case record and finds that appellant has not met his burden of proof in this case.

In the present case, appellant, a mailhandler, has alleged that he sustained an emotional condition in the performance of his employment on December 5, 1996 because his supervisor changed his light-work duties on that day. Appellant stated he had returned to light work following a work-related injury. In a supplemental statement, appellant explained that he experienced a rise in his blood pressure on the day in question following a verbal altercation with his supervisor regarding his job duties. The Office of Workers' Compensation Programs denied appellant's claim by decision dated April 29, 1997, on the grounds that appellant had not established that he sustained an emotional condition in the performance of his federal employment.

Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. When an employee experiences emotional stress in carrying out her employment duties or has fear and anxiety regarding her ability to carry out her duties, and the medical evidence establishes that the disability resulted from her emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of the employment. The same result is reached when the emotional disability resulted from the employee's emotional reaction to a special assignment or requirement imposed by the employing establishment or by the nature of the work. In contrast, a disabling condition resulting from an employee's feelings of job insecurity *per se* is not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of the Federal Employee's Compensation Act. Nor is disability covered when it results from

such factors as an employee's frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>1</sup>

Rather than the work itself, appellant has attributed his emotional condition to an administrative action by his supervisor, the change of his job duties on December 5, 1996. Appellant has not, however, established the compensability of this allegation. Although administrative and personnel matters are generally related to the employment, they are functions of the employer and not duties of the employee.<sup>2</sup> Thus, the Board has held that reactions to actions taken in an administrative capacity are not compensable unless it is shown that the employing establishment erred or acted abusively in its administrative capacity.<sup>3</sup>

In the present case, the evidence of record indicates that appellant returned to work on October 12, 1996 in a limited-duty position rewrapping and bagging letters, while seated at a desk or table. Appellant's supervisor has explained that on December 5, 1996 all limited-duty employees assigned to rewrap and bagging were combined into one work area, to more evenly distribute tasks. Appellant supervisor stated that he assigned each of the individuals tasks within their job offers and that appellant was assigned to work one letter tray of torn letters, tape each piece together, bag all completed letters for forwarding to customers and return extra pieces to nixie clerk. He also explained that appellant was assigned a table and chair. Appellant's supervisor specifically stated that appellant's work duties on December 5, 1996 were within his light-duty restrictions. Appellant has not alleged that he was actually unable to perform his work duties on December 5, 1996. Rather appellant has indicated his disagreement with the manner, in which his job duties were changed. Appellant has not submitted any corroborating evidence that the manner, in which he was assigned work duties on December 5, 1996 was in fact in error or was abusive. Appellant's allegations pertain to a frustration in not being allowed to work in a particular environment, such personal frustration in not compensable pursuant to the Act.<sup>4</sup>

Appellant has also alleged in general terms that he was harassed by his supervisor during a verbal disagreement on December 5, 1996. Actions of an employee's supervisors or coworkers which the employee characterizes as harassment may constitute a factor of employment giving rise to a compensable disability under the Act. However, for harassment to give rise to a compensable factor of employment, there must be evidence that harassment or discrimination did, in fact, occur.<sup>5</sup> Mere perceptions of harassment are not compensable. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred.<sup>6</sup> To establish entitlement, the claimant must establish a factual basis for

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<sup>1</sup> See *Helen P. Allen*, 47 ECAB 141 (1995).

<sup>2</sup> *Martin Standel*, 47 ECAB 306 (1996).

<sup>3</sup> *Harriet J. Landry*, 47 ECAB 543 (1996).

<sup>4</sup> See *supra* note 1.

<sup>5</sup> *Helen P. Allen*, 47 ECAB 141 (1995).

<sup>6</sup> *Id.*

the claim by supporting his or her allegations with probative and reliable evidence.<sup>7</sup> Although appellant alleged that in this case, his blood pressure rose during a verbal disagreement with his supervisor, appellant has not provided details of any specific verbal exchange or evidence substantiating or verifying what was said. For this reason, the Board finds that appellant has failed to factually establish this allegation as a compensable factor of employment.<sup>8</sup>

As appellant has not established that any of the alleged incidents occurring on December 5, 1996 constituted compensable factors of employment pursuant to the Act, appellant did not meet his burden of proof in this case.

The decision of the Office of Workers' Compensation Programs dated April 29, 1997 is hereby affirmed.

Dated, Washington, D.C.  
April 28, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member

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<sup>7</sup> See *Joel Parker, Sr.*, 43 ECAB 220 (1991).

<sup>8</sup> *Garry M. Carlo*, 47 ECAB 299 (1996).