

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CORNELIO GONZALES and U.S. POSTAL SERVICE,
POST OFFICE, Albuquerque, N.M.

*Docket No. 96-2391; Submitted on the Record;
Issued June 1, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof to establish that he sustained a stroke due to factors of his federal employment.

The Board finds that the case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

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 his or her regular or specially assigned duties or to 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 such factors as an employee's fear of a reduction-in-force or his or her frustration from not being permitted to work in a particular environment or to hold a particular position.⁵ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment, and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁶

In the present case, appellant alleged that he sustained a stress-related condition as a result of a number of employment incidents and conditions. By decision dated April 12, 1995, the Office denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained a stroke due to employment factors and, by decision dated July 20, 1995, the Office denied modification of its April 12, 1995 decision. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

Appellant alleged that he sustained stress because he worked long hours, was subject to deadlines which were difficult to meet, and essentially had to perform the demanding duties of both a postmaster and a supervisor at the employing establishment.⁷ Appellant asserted that he was responsible for meeting increasingly demanding work requirements during a period that his work unit lost staff members. He claimed that he sustained stress due to performing supervisory duties such as disciplining employees.⁸ Appellant alleged that his work helped to bring about his

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁵ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566; *Lillian Cutler*, 28 ECAB 125 (1976).

⁶ *Margaret Krzycki*, 43 ECAB 496, 501-02 (1992); *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁷ Appellant noted that, *inter alia*, he had to manage the volume of postal materials handled by employees, balance books and deposits, prepare timecards, respond to customer complaints and manage the maintenance of postal vehicles. Appellant officially worked at the employing establishment as a postmaster.

⁸ Appellant indicated that one occasion he had to mediate an altercation between two employees and that on

stroke because the nature of his job duties prevented him from sticking to his hypertension medication regime, eating healthy meals on regular basis and keeping medical appointments. He indicated that he rarely took a lunch break and that he was unable to take his hypertension medication on a regular basis because he was required to take his medication a half hour before eating a meal. Appellant also claimed that a leaking roof in his office made it more difficult to perform his work duties; he noted had to spend time reconstructing records after his paperwork sustained water damage in March 1993.

The Board has held that stress-related reactions to situations in which an employee is trying to meet his or her position requirements are compensable.⁹ The record contains documents, including statements from supervisors and other employees, which support appellant's claims regarding his work duties at the employing establishment. The evidence of record shows that appellant worked long hours; that he was subject to deadlines which were difficult to meet; that he had to perform numerous demanding duties including the disciplining of employees; and that he was responsible for meeting increasingly demanding work requirements during a period that his work unit lost staff members.¹⁰ The record also shows that appellant sustained additional stress in performing his work duties due to the fact that the roof in his office had leaked and caused damage to his records. Therefore, appellant has identified employment factors with respect to these aspects of his job duties and work schedule.

Appellant alleged that he did not receive proper training prior to becoming a postmaster. He claimed that he sustained stress in that he had to acquire skills as he went along without receiving adequate guidance. Regarding appellant's allegations that the employing establishment improperly handled his training, the Board finds that this allegation relates to an administrative or personnel matter, unrelated to the employee's regular or specially assigned work duties and does not fall within the coverage of the Act.¹¹ Although the handling of such an administrative matter is generally related to the employment, it is an administrative function of the employer, and not a duty of the employee.¹² However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.¹³ The record contains evidence which shows that

another occasion he had to terminate two employees for misconduct. He stated that the two employees filed false charges against him after the termination and noted that the termination was upheld after a grievance was filed by the employees.

⁹ See *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

¹⁰ The record reflects that appellant often worked on weekends and at times worked at least 15 hours per day.

¹¹ See *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

¹² *Id.*

¹³ See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

appellant did not receive proper training prior to assuming his duties as a postmaster. In particular, the employee who replaced appellant after he suffered his stroke indicated that appellant was not adequately trained for the position, especially with regard to the handling of finance and delivery services. Appellant has established that the employing establishment committed error by not ensuring that he was adequately trained and therefore he has identified a compensable employment factor in this regard.

Appellant submitted medical evidence which provides some support for his contention that his stroke was related to the claimed employment factors. In a report dated April 19, 1995, Dr. Ravi Bhasker, an attending Board-certified family practitioner, noted that his diabetes and hypertension directly contributed to his stroke and indicated that the hours and responsibilities of his job made it difficult to get adequate medical treatment. Dr. Bhasker stated:

“It does appear [that] prior to July 2, 1994, however, because he was unable to make doctor’s appointments, take his medication and follow a balanced and regular diet due to his work environment, the patient’s blood sugars and blood pressure were totally uncontrolled. The many tests given [appellant] were inconclusive as to what caused the stroke, and it is my feeling that the stress and number of hours he worked as a part of his employment directly contributed to his suffering the stroke.”

In a report dated May 1, 1995, Dr. Jesse Portugal, an attending physician Board-certified in physical medicine and rehabilitation, stated, “While I can not unequivocally state that his work ‘caused’ his stroke, the environment certainly elevated his risk factors of stress and high blood pressure.”

In the present case, appellant has established compensable employment factors with respect to the above-described matters concerning his job duties, work schedule and training. Because appellant has identified such factors, the Office should evaluate whether appellant sustained a medical condition related to these employment factors.¹⁴ The Office should prepare a new statement of accepted facts detailing the accepted employment factors. The Office should then refer appellant and the case record, including the new statement of accepted facts, to an appropriate medical specialist for examination and an opinion on whether he sustained a stress-related medical condition due to his employment. After such further development as deemed necessary, the Office should issue an appropriate decision on this matter.

¹⁴ See *supra* note 6 and accompanying text.

The decisions of the Office of Workers' Compensation Programs dated July 20 and April 12, 1995 are set aside and the case remanded to the Office for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.
June 1, 1999

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member