

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LOWELL C. DANSBY and DEPARTMENT OF THE AIR FORCE,
LACKLAND AIR FORCE BASE, TX

*Docket No. 98-1316; Submitted on the Record;
Issued September 24, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained an emotional condition while in the performance of duty.

On September 9, 1997 appellant, then a 42-year-old patient tray service worker, filed an occupational disease claim, alleging that he sustained chronic pain disorder and paranoid schizophrenia of which he first became aware in 1995 and realized was causally related to factors of his federal employment on January 20, 1994. Appellant stopped work on August 28, 1997. In supplemental statements, appellant listed the following as causative factors of his emotional condition: the employing establishment erroneously denied appellant's request for leave; appellant was forced to rotate jobs and job stations daily; appellant was assigned to harder duties than other employees; appellant was improperly charged absence without leave rather than being charged with sick or annual leave; appellant was worried about job elimination and was denied requests for reassignment; and the employing establishment's improper preparation of his time caused appellant not to be paid for the work performed.

In a decision dated February 17, 1998, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record did not establish that he sustained an emotional condition while in the performance of duty.

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.¹ 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.² 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.³

In the present case, appellant has not substantiated any compensable factors of employment under the Act. Specifically, appellant contends that the employing establishment abused its discretion or erred with respect to denying appellant's requests for leave usage. This is an administrative or personnel function of the employing establishment and is only compensable if appellant can establish that there was error or abuse. The record does not contain any such evidence to support this contention. Thus, appellant's contention that he was improperly denied leave is not a compensable factor under the Act. Similarly, the contention that the employing establishment improperly placed appellant in absence without leave status on June 26, 1997 after he had a panic attack is also not compensable as there is no indication in the record that the employing establishment erred or acted abusively. Appellant also contends that he was concerned about job elimination and that the employing establishment denied his requests for reassignment. However, an employee's fear of a reduction-in-force or inability to hold to a particular position is not covered under the Act. Appellant's other contentions stem from his belief that there was a shortage of employees and that he was forced to rotate jobs and job stations due to the shortage of personnel.⁴ A review of record indicates that the employing establishment's patient tray service area underwent a reorganization on or about February 20, 1997. The employing establishment reported that this was because the need for the patient tray service area was going to be decreased by 50 percent. Therefore, contrary to appellant's contention that there was a shortage of employees, there was actually a substantial reduction in the number of patients and the need for the tray service area. In a memorandum dated October 24, 1997, the employing establishment indicated that despite the rotation of duties, the employees in patient tray service had less to do than they had prior to the reorganization. As there is no evidence of record to contradict this memorandum, the Office properly determined that this also was not a compensable factor of employment as appellant has not substantiated his

¹ *Lillian Cutler*, 28 ECAB 125 (1976).

² *Artice Dotson*, 41 ECAB 754 (1990); *Allen C. Godfrey*, 37 ECAB 334 (1986); *Buck Green*, 37 ECAB 374 (1985).

³ *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

⁴ It must be noted that appellant is not alleging that he was subjected to shift changes which might be a compensable factor under the Act. Rather, appellant is alleging that the employing establishment improperly rotated his job duties and stations during his regular shift.

contention that the employing establishment acted improperly in reorganizing the duties of the tray service personnel. Appellant has not met his burden to establish that he sustained an emotional condition while in performance of duty.

The decision of the Office of Workers' Compensation Programs dated February 17, 1998 is hereby affirmed.

Dated, Washington, D.C.
September 24, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member