

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN F. PARLATO and U.S. POSTAL SERVICE,
POST OFFICE, Fort Lauderdale, FL

*Docket No. 99-701; Submitted on the Record;
Issued August 25, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant met his burden of proof to establish that he sustained an emotional condition in the performance of duty causally related factors of employment.

On May 23, 1997 appellant, then a 48-year-old city carrier, filed an occupational disease claim alleging that factors of employment had caused depression and an anxiety reaction. He had been terminated for cause on July 18, 1996. In a supporting statement, appellant noted that he was terminated for causing a traffic accident. He stated that this caused financial difficulties and placed a strain on his marital relationship. Appellant and his wife separated which, he stated, further aggravated his condition causing sudden weight loss and increased psoriasis. He filed a grievance which went to arbitration on January 29, 1997, after which he was reinstated without back pay. He noted that due to the medication he takes for his condition he cannot drive and was working limited duty 2½ hours per day, 5 days per week. By letter dated July 30, 1997, the Office of Workers' Compensation Programs requested that appellant provide all medical records regarding his condition, including a statement from his physician which described his present condition and how it related to his dismissal.

By decision dated September 3, 1997, the Office denied the claim on the grounds that it did not arise in the performance of duty. In the attached memorandum, the Office stated that the termination did not demonstrate error or abuse on the part of the employing establishment. On September 30, 1997 appellant requested a hearing which was held on March 30, 1998. At the hearing, appellant testified that he returned to limited duty in March 1997 and full duty in July 1997. His representative argued that, as the arbitrator deemed the employing establishment's termination excessive discipline, this demonstrated error and abuse on its part. In a September 29, 1998 decision, an Office hearing representative affirmed the prior decision, finding that the employing establishment's action in terminating appellant was not unreasonable.

The employing establishment submitted a notice of removal dated June 13, 1996, effective July 18, 1996, which indicated that appellant had been at fault in a motor vehicle accident on May 13, 1996 when he failed to yield the right of way.

An arbitration decision dated March 1, 1997 provides:

“[Appellant’s] negligence caused the subject accident, thereby constituting just cause for discipline. For reasons explained in the evaluation, substantial discipline was appropriate, but removal violated the corrective principle in section 16.1 and was excessive. The [employing establishment] is directed to convert the removal to an extended suspension and reinstate [appellant] to employment no later than two weeks after the week in which the [employing establishment] receives this decision. No back pay is awarded.

The medical evidence in this case consists of an undated psychiatric evaluation with an illegible signature which states that appellant reported that “they [a]re trying to fire me for causing a vehicle accident.” Depression was diagnosed. In a psychiatric note dated January 7, 1997, again with an illegible signature, appellant reported that he was depressed because of his divorce and because he lost his job. In a report dated May 20, 1997, Dr. Manual R. Garcia, a Board-certified psychiatrist, reported a history of the motor vehicle accident and that appellant had been depressed since July 1996 when he almost lost his job. He diagnosed depression.

The Board finds that appellant has not established that he sustained an emotional condition causally related to factors of employment.

To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.¹ Workers’ compensation law is not applicable to each and every injury or illness that is somehow related to employment. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the coverage of workers’ compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within coverage of the Federal Employees’ Compensation Act.² On the other hand, there are situations when an injury has some connection with the employment, but nonetheless does not come within the coverage of workers’ compensation because it is not considered to have arisen in the course of the employment.³

¹ *Donna Faye Cardwell*, 41 ECAB 730 (1990).

² 5 U.S.C. § 8101 *et seq.*

³ *Joel Parker, Sr.*, 43 ECAB 220 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

The medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. Rationalized medical evidence is medical evidence that 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

In the instant case, the record contains an arbitration decision that was favorable to appellant in that it was deemed that the employing establishment's termination was excessive. Generally, an employee's emotional reaction to an administrative or personnel matter is not covered under the Act.⁵ However, error or abuse by the employing establishment in what would otherwise be an administrative or personnel matter or evidence that the employing establishment acted unreasonably in the administration of a personnel matter, may afford coverage.⁶

The arbitration decision regarding appellant's grievance is not a settlement agreement, which is typically entered into without prejudice to either party. It is a formal decision resolving the grievance in appellant's favor to the extent that the termination was deemed excessive. As such, this decision supports error on the part of the employing establishment regarding appellant's termination. It therefore provides a factual basis for appellant's claim,⁷ and the Board finds that appellant has established a compensable factor of employment.

Appellant's burden of proof, however, is not discharged by the identification of a compensable work factor. To establish his claim for an emotional condition, appellant must also submit rationalized medical evidence establishing that he has an emotional condition and that such condition is causally related to the identified compensable work factor. By letter dated July 30, 1997, the Office requested medical information from appellant, including a statement from his physician which described his present condition and how it related to his dismissal. While the medical evidence in this case indicates that appellant was receiving psychiatric treatment for depression from January through May 1997, none of the reports provide a cause of his condition.

⁴ See *Charles E. Burke*, 47 ECAB 185 (1995).

⁵ 5 U.S.C. §§ 8101-8193.

⁶ *Norman A. Harris*, 42 ECAB 923 (1991).

⁷ See *Ruthie M. Evans*, 41 ECAB 416 (1990).

Appellant, therefore, did not meet his burden of proof to establish that his emotional condition was work related because he did not submit rationalized medical evidence explaining how this factor of employment caused or aggravated his emotional condition.

The decision of the Office of Workers' Compensation Programs dated September 29, 1998 is hereby affirmed as modified.

Dated, Washington, D.C.
August 25, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member