

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of TODD B. CASSELL and U.S. POSTAL SERVICE,  
SOUTHSIDE STATION, Richmond, VA

*Docket No. 00-204; Submitted on the Record;  
Issued January 12, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM

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

On April 23, 1998 appellant, then a 35-year-old letter carrier, filed a claim for work-related stress. He attributed his stress to being pressured by management to work beyond his ability. Appellant noted that in the prior two months he had been delivering mail on a route that had not been adjusted to be completed in eight hours. In a subsequent letter, he indicated that four to five months previously, the employing establishment underwent changes due to automation. Appellant stated that two mail routes were abolished, which resulted in other routes requiring extra time. He commented that a carrier with more seniority took over his route so he moved to a new route. Appellant claimed that the new route was out of adjustment and the mail volume was too heavy to be completed in eight hours. He indicated that his supervisor observed his route and verbally told him that he had done well in the office and kept up a good pace on the street. Appellant related that a week later, the supervisor, in a written report, contradicted her earlier verbal statements, indicating that appellant was working too slow and showed a lack of urgency. He stated that on April 18, 1998 his supervisors were attempting to pressure him to carry more mail than he knew he was able to. He indicated that he became nervous and went home on sick leave.

In a December 1, 1998 decision, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to demonstrate that the claimed injury occurred in the performance of duty.

In a March 22, 1999 letter, appellant, through his attorney, requested reconsideration. He submitted several statements in support of his claim. In a January 25, 1999 statement, Mary Harris stated that on April 18, 1998 appellant was instructed by a trainee supervisor to take all the bulk mail that was on his ledge as well as the first class, second class and dailies and return to the office in eight hours. She indicated that appellant, realizing that the assignment was impossible, became upset and had to leave. In a separate January 25, 1999 statement,

Dennis Loudermilk stated that he had delivered the route appellant subsequently had and indicated that the route was in excess of an eight-hour day. He noted that he bid off the route after the administrative changes because it was a struggle to do a quality job on the route.

In a May 3, 1999 response to appellant's claim, an official at the employing establishment stated that appellant's work performance was erratic. He indicated that appellant did not take constructive criticism well and, at times, did not like receiving instructions. Appellant noted that the route had changed since Mr. Loudermilk had carried it and therefore, he could not comment on it. The official noted that two other carriers had been able to complete the route in eight hours without assistance. A supervisor stated that appellant, in casing the mail, engaged in time wasting practices which delayed the delivery of the mail.

In a June 25, 1999 merit decision, the Office denied appellant's request for modification of the December 1, 1998 decision.

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

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 the 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 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. Disabling conditions resulting from an employee's feeling of job insecurity or the desire for a different job do not constitute personal injury sustained while in the performance of duty within the meaning of the Act.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

Appellant claimed that his stress was caused by carrying his mail route, contending it was out of adjustment and required more than eight hours to deliver the mail. He has attributed his condition to the performance of his regular and assigned duty of delivering mail. Appellant claimed that on April 18, 1998 he was ordered to carry more mail than could be delivered in

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>2</sup> *Artice Dotson*, 41 ECAB 754 (1990); *Allen C. Godfrey*, 37 ECAB 334 (1986); *Buck Green*, 37 ECAB 374 (1985); *Peter Sammarco*, 35 ECAB 631 (1984); *Dario G. Gonzalez*, 33 ECAB 119 (1982); *Raymond S. Cordova*, 32 ECAB 1005 (1981); *John Robert Wilson*, 30 ECAB 384 (1979).

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

eight hours. He noted that he became upset and took sick leave. Appellant provided a witness statement pertaining to the mail volume carried on the route. The employing establishment contended that two other carriers had been able to complete the route in eight hours. The Board finds the allegation made by appellant as to his route and the fact that he could not complete it within the required time is substantiated by the evidence and relate to the performance of his assigned duties. Thus, under the principle set forth in *Cutler*,<sup>4</sup> appellant has established a compensable factor of his federal employment as contributing to an emotional condition.

The case will therefore be remanded. On remand, the Office should prepare a statement of accepted facts, setting forth the factors of appellant's employment which are considered to be compensable factors of employment and those factors which are not to be considered factors of appellant's employment. The Office should then refer appellant, together with a statement of accepted facts and the case record, to an appropriate specialist for an examination and a rationalized opinion on whether appellant's emotional condition was causally related to compensable factors of his employment. After further development as it may find necessary, the Office should issue a *de novo* decision.

The decisions of the Office of Workers' Compensation Programs dated June 25, 1999 and December 1, 1998 are hereby set aside and the case remanded for further action as set forth in this decision.

Dated, Washington, DC  
January 12, 2001

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

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