

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD RITCHIE and U.S. POSTAL SERVICE,
DUNBAR POST OFFICE, Dayton, OH

*Docket No. 02-1317; Submitted on the Record;
Issued October 8, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant sustained an emotional condition in the performance of duty on or about September 22, 2000.

On October 11, 2000 appellant, then a 33-year-old letter carrier, filed a traumatic injury claim asserting job-related stress, anxiety and depression on September 22, 2000. The station manager indicated that appellant was off work due to an administrative action.

On October 17, 2000 appellant filed an occupational disease claim asserting that job harassment caused anxiety and depression. He stated that he was ordered to do things against physician's orders, that his locker and personal belongings were illegally searched and that he was cussed out. Appellant indicated that he first became aware of his illness on September 22, 2000.

The Office of Workers' Compensation Programs requested that appellant submit additional information, including witness statements and documentation verifying his allegations. The Office also requested that appellant submit a detailed narrative medical report from his treating physician, including the physician's opinion, with reasons, as to whether, how and which factors of federal employment caused, aggravated, precipitated or accelerated appellant's disability.

On December 6, 2000 appellant clarified that the date of injury was September 22, 2000. He offered a statement relating the events of that day, together with a grievance statement dated September 20, 2000, describing his interaction with the station manager on September 19, 2000. Briefly, appellant received an order from the station manager on September 19, 2000 to drive another carrier on her route, as that carrier had no license at the time. Appellant objected for two reasons, only one of which he related or was able to relate. When he then complained that he felt physically ill and could not drive the other carrier, the station manager ordered him off the clock and told him to provide medical documentation. He later submitted documentation, which the station manager found to be insufficient. Appellant alleges that on September 22, 2000 he

overheard a group of unidentified men making threats against the station manager's safety. When appellant reported these remarks, an investigation took place during which, it appears, he refused to answer a number of questions put to him. It also appears that he failed to follow instructions not to discuss the matters being investigated with any postal employee until the investigation was complete. A postal inspector searched appellant's locker and personal property and attempted to search his car.

Appellant submitted a September 23, 2000, verification of hospitalization showing two diagnoses: (1) adjustment disorder with depressed mood; and (2) stress symptoms "secondary to work situation."

In a decision dated June 20, 2001, the Office denied appellant's claim on the grounds that he failed to establish fact of injury on September 22, 2000. The Office found that appellant had failed to submit witness statements or other documentation sufficient to support his allegations and, therefore, failed to establish a factual basis for his claim. The Office also found that appellant had failed to establish that the alleged events, if true, arose in the course of employment, as opposed to a properly handled personnel or administrative matter. The Office further found that appellant's claim lacked any medical documentation to support that he sustained a medical condition in connection with the alleged work incidents of September 22, 2000.

Appellant requested an oral hearing before an Office hearing representative.

The Office received a June 11, 2001, statement from the station manager, who gave her account of what happened on September 19 and 20, 2000, an account that was not substantially inconsistent with appellant's own. Stating that she was not part of the interviews conducted with appellant, the station manager made little mention of September 22, 2000.

Appellant submitted a September 22, 2000 memorandum from Greg White, a union steward who attended the investigative meeting that day with appellant, the postmaster and two labor relations representatives. Mr. White stated that appellant replied "no" when asked whether there were any prior Equal Employment Opportunity (EEO) complaints against the station manager. He stated almost nothing else about the September 22, 2000 meeting.

The record contains unsigned notes dated September 22, 2000, about this same meeting. The record also contains a November 22, 2000 notice of removal for improper conduct/failure to follow instructions. The notice described what occurred during the investigation of September 22, 2000.

On January 2, 2002 the employing establishment commented on the hearing transcript. Appellant submitted a February 8, 2002 statement in response.

The record contains what appears to be appellant's responses to written questions regarding the events of September 22, 2000.

In a decision dated February 27, 2002, the hearing representative affirmed the Office's June 20, 2001 decision denying compensation. The hearing representative found that the factors

implicated by appellant were either not established as factual or were not compensable because they did not occur in the performance of duty.

The Board finds that appellant has not met his burden of proof to establish that he sustained an emotional condition in the performance of duty on or about September 22, 2000.

The claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his diagnosed condition was caused or adversely affected by his employment.¹ This burden includes the submission of a detailed description of the employment factors that he believes caused or adversely affected the condition for which appellant claims compensation.² The claimant's burden of proof is not discharged by the fact that he has identified employment factors that may give rise to a compensable disability. Appellant must also submit a well-reasoned medical opinion establishing that he has an emotional or psychological disorder and that such disorder is causally related to the identified compensable employment factors.³

The Office advised appellant of the information needed to support his claim, including a detailed narrative medical report from his treating physician with a reasoned opinion on how specific factors of federal employment caused, aggravated, precipitated or accelerated appellant's disability. Appellant submitted no such medical report. A September 23, 2000 verification of hospitalization gave a diagnosis of stress symptoms "secondary to work situation," but this appears to be merely descriptive of the history that he related to his caregivers, not a considered medical opinion. As such, the verification of hospitalization has no probative value in establishing the essential element of causal relationship. Because appellant failed to submit evidence to support an essential element of his claim, the Board finds that he has failed to make a *prima facie* claim for compensation.⁴

Additionally, appellant has submitted no evidence substantiating his allegations. Workers' compensation law does not cover each and every illness that is somehow related to one's employment.⁵ An emotional reaction to an administrative or personnel action is not compensable unless the evidence shows error or abuse on the part of the employing

¹ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

² *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (one of the essential elements of a claim is that the claimant specify factors of his employment that he believes have caused an injury, such as an emotional or hypertensive condition).

³ *William P. George*, 43 ECAB 1159, 1168 (1992).

⁴ *See Herman E. Harris* (Docket No. 91-1754, issued April 29, 1992) (finding that the claimant failed to establish a *prima facie* claim for compensation where he submitted no medical opinion relating his occupational disease or condition to factors of his federal employment).

⁵ *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

establishment.⁶ Allegations alone by a claimant are insufficient.⁷ Mere perceptions and feelings of harassment or discrimination will not support an award of compensation. The claimant must substantiate such allegations with probative and reliable evidence.⁸

The record in this case shows that appellant was removed on November 22, 2000 for improper conduct/failure to follow instructions, stemming basically from events on or about September 22, 2000. While appellant alleges harassment in connection with those events, he has submitted no evidence substantiating error or abuse by the employing establishment in any personnel or administrative action. A statement from Mr. White, a union representative, in no way corroborates error or abuse during the September 22, 2000 investigative meeting.

Appellant's claim rests solely on his unsubstantiated allegations. With no reliable and probative evidence corroborating error or abuse by the employing establishment, appellant has failed to establish a factual basis for his claim.

The February 27, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 8, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁶ *Thomas D. McEuen*, 42 ECAB 566, 572-73 (1991), *reaff'd on recon.*, 41 ECAB 387 (1990).

⁷ *See Kathleen D. Walker*, 42 ECAB 603 (1991); *Arthur F. Hougens*, 42 ECAB 455 (1991); *Ruthie M. Evans*, 41 ECAB 416 (1990) (in each of these cases the Board looked beyond the claimant's allegations of unfair treatment to determine if the evidence corroborated such allegations).

⁸ *Joel Parker, Sr.*, 43 ECAB 220, 225 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990) (for harassment to give rise to a compensable disability, there must be some evidence that harassment or discrimination did in fact occur); *Pamela R. Rice*, 38 ECAB 838 (1987) (claimant failed to establish that the incidents or actions which she characterized as harassment actually occurred).