

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES A. SPOERL and U.S. POSTAL SERVICE,  
POST OFFICE, Englewood, CO

*Docket No. 02-739; Submitted on the Record;  
Issued September 6, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
DAVID S. GERSON

The issue is whether appellant has established that he sustained an injury in the performance of duty on May 16, 2001.

On June 9, 2001 appellant, then a 48-year-old letter carrier, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1). He alleged that, on May 16, 2001, due to a meeting with Paula Harmon, the supervisor, he felt stressed out. Appellant noted that his blood pressure was strained due to this confrontation and that rendered him incapable of working. He stated that he felt that he was having a heart attack. The employing establishment controverted the claim. Appellant returned to duty on May 29, 2001.

In a September 19, 2001 statement, Ms. Harmon stated that the office-wide city carrier route examinations took place the week of May 12, 2001 and a stand-up meeting was conducted prior to the week of the examination. She indicated that all employees were advised of the importance of following their row charts and maintaining delivery standards. Stand-up carriers were also instructed that the rule still applied for carriers to complete delivery prior to 1700 hours or to notify management by 1430, if they believed they were unable to do so. Ms. Harmon advised that, on May 15, 2001, appellant returned to the office at 1723 and had neglected to notify management of his not completing delivery in the required time frame. At that time, she notified the union steward, of her intention of speaking with appellant the following morning for failure to follow instructions. Ms. Harmon stated that, on the morning of May 16, 2001, Ms. Pagel approached her and stated that she was going to talk to appellant. Ms. Harmon indicated that, was fine, Ms. Pagel later returned and indicated that appellant was stressed out, getting ready to cry, and shaking. She met with appellant and Ms. Pagel in the manager's office and advised him that he needed to calm down and he appeared to feel better. Ms. Harmon stated that she also reminded appellant of the need to notify management of the 1700-delivery time and that he had failed to follow instructions, however, she advised that she was not going to take action against him at this time. Ms. Harmon stated that, a short time later, a clerk approached her and indicated that she needed to call an ambulance as appellant was having a heart attack.

She instructed the employee to call 911 and proceeded outside the building where appellant was leaning against the wall, being supported by another employee, Miroslav Bartik. Ms. Harmon stated that Mr. Bartik indicated that appellant had nitroglycerin pills in his shirt pocket and had taken one. She noted that the paramedics arrived shortly thereafter and appellant was transported to the hospital. Ms. Harmon stated that this was not a job-related incident and appellant apparently had a preexisting condition, as he had the nitroglycerin pills in his pocket. The report was not filed until June 9, 2001.

In a June 4, 2001 statement, Robert Falco, a carrier, indicated that he observed appellant slumped over against the exterior wall of the building, laying on the ground, holding his chest, and grasping for breath as he appeared to be having severe chest pains.

In a September 20, 2001 statement, the employing establishment indicated that appellant failed to follow his supervisor's instructions and a discussion was given to him by supervisor Harmon, which was related to following instructions related to his conduct. The employing establishment indicated that discipline related to conduct was not in the performance of appellant's duties. The employing establishment advised that this was an administrative function of the supervisor and any emotional reaction to an administrative function was considered self-generated and was not in the performance of duty.

In an undated statement received by the Office of Workers' Compensation Programs on September 24, 2001, Charles Biles stated that on May 16, 2001, he went to help appellant, who was lying on the sidewalk, outside of the employing establishment, as he was having pains in his chest. He stated that he asked appellant for and then gave him a nitroglycerin tablet, in case of a heart attack.

By letter dated October 3, 2001, the Office requested that appellant submit additional information including a detailed description of the employment factors which he felt had contributed to his claimed condition and a comprehensive medical report from his treating physician with a description of symptoms, results of examinations and tests, a diagnosis, the treatment provided and a rationalized medical opinion on the cause of appellant's condition and whether any employment factors contributed to the condition. Appellant was allotted 30 days to submit the requested evidence.

In a response dated October 21, 2001, appellant indicated that on May 16, 2001 he had a meeting between the station manager, Ms. Harmon and shop steward, Helen Lehman was there as a witness and union spokesperson. He described his duties as a letter carrier and stated that this meeting had aggravated his health and caused it to worsen. Appellant noted further that he had never had a problem before. He explained that he did have a partly blocked right coronary artery, which had not stopped him from doing his job. Appellant stated that the meeting caused his blood pressure to increase and his heart rate to elevate. He explained that after the meeting he tried to go back to sorting and casing his mail, but the pressure of this confrontation was so great that he felt like he was having a heart attack. Appellant stated that the fire and rescue department was called and he was taken to the hospital and admitted overnight. He explained that he did not return to work until May 29, 2001. Appellant indicated that he believed this meeting with the station manager was unnecessary and caused him to almost die that day. He stated that this caused the unneeded stress. Appellant also included blood pressure reports taken

on the night of May 15, 2001, the night before the meeting, the fire rescue report from South Metro Fire Rescue, copies of witness statements previously received, blood pressure reports taken up to October 8, 2001, a report from his doctor and a description of his medication.

By decision dated November 7, 2001, the Office denied appellant's claim for compensation benefits on the grounds that he failed to establish that he sustained an injury in the performance of duty on May 16, 2001.

The Board finds that appellant has not established an injury in the performance of duty on May 16, 2001.

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 with the coverage of the Act.<sup>1</sup> 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>2</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>3</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>4</sup>

Appellant contended that a meeting with his supervisor on May 16, 2001, concerning a rule and the procedures regarding completion of delivery by 5:00 p.m., caused severe stress and precipitated severe chest pain. He indicated that the confrontation caused him great pressure and was unnecessary. Verbal altercations with supervisors, when sufficiently detailed by the claimant and supported by the evidence of record, can constitute factors of employment.<sup>5</sup> In this

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<sup>1</sup> The Board notes that the claim filed in this case was a traumatic injury claim, a claim based on incidents occurring within one workday or shift.

<sup>2</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>3</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>4</sup> *Thomas D. McEuen*, 41 ECAB 387 (1990) *reaff'd on recon.*, 42 ECAB 566 (1991).

<sup>5</sup> *Samuel F. Mangin, Jr.*, 42 ECAB 671 (1991).

case, appellant claimed that his meeting with his supervisor caused his blood pressure to elevate and caused him to have a lot of pressure, resulting in his heart attack. The supervisor denied that she abused appellant but only reminded him that he had failed to follow her instructions regarding the completion of delivery by 1700 hours and that he had neglected to notify management by 1430 the prior evening when he was unable to complete delivery by 1700 hours. She advised that she was not taking action against him and he appeared to feel better. She noted a short time later that a clerk approached her and informed her that appellant was in need of an ambulance as he was having a heart attack.

It is well established that administrative or personnel matters, although generally related to employment, are primarily administrative functions of the employer rather than duties of the employee.<sup>6</sup> The Board has also found, however, that an administrative or personnel matter may be a factor of employment where the evidence discloses error or abuse by the employing establishment.<sup>7</sup> The record reflects that the meeting was to remind appellant of procedures. Appellant has not alleged any abuse or error on the part of the employing establishment, merely that the meeting was unnecessary and caused him stress. To the extent that appellant is alleging that the instruction to complete delivery in the required time or notify management if they were unable to do so, was erroneous or abusive, he has not presented any probative evidence in this regard. Unsupported allegations of error or abuse are not sufficient to establish a compensable factor of employment.<sup>8</sup>

Appellant, therefore, has not shown that an incident occurred within the performance of his duty as he alleged. He contends that his condition was caused by his meeting with his supervisor concerning proper procedures as to maintaining delivery standards. Appellant did not make any claim that he had stress due to the performance of his assigned duties, including problems with workload or with meeting deadlines for completing assigned projects. He, therefore, has not established that he sustained an injury in the performance of duty.

The Board is unable to find any probative evidence of error or abuse in the administrative actions on May 16, 2001. Accordingly, the Board finds that appellant has not established a compensable work factor in this case. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.<sup>9</sup>

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<sup>6</sup> *Anne L. Livermore*, 46 ECAB 425 (1995); *Richard J. Dube*, 42 ECAB 916 (1991).

<sup>7</sup> *See Michael Thomas Plante*, 44 ECAB 510 (1993); *Kathleen D. Walker*, 42 ECAB 603 (1991).

<sup>8</sup> *See Harriet J. Landry*, 47 ECAB 543, 547 (1996); *Martin Standel*, 47 ECAB 306, 308 (1996).

<sup>9</sup> *See Margaret S. Krzycki*, 43 ECAB 496 (1992).

The November 7, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
September 6, 2002

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

David S. Gerson  
Alternate Member