

**United States Department of Labor
Employees' Compensation Appeals Board**

LARRY JONES, Appellant

and

**U.S. POSTAL SERVICE, PROCESSING &
DISTRIBUTION CENTER, Little Rock, AR,
Employer**

)
)
)
)
)
)
)
)
)
)
)

**Docket No. 05-1047
Issued July 22, 2005**

Appearances:

*James W. Stanley, Jr., Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
DAVID S. GERSON, Judge

JURISDICTION

On April 6, 2005 appellant filed a timely appeal of a February 14, 2005 decision of an Office of Workers' Compensation Programs' hearing representative, affirming a January 6, 2004 decision denying his claim for an emotional condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established an emotional condition causally related to compensable factors of his federal employment.

FACTUAL HISTORY

On July 7, 2003 appellant, then a 42-year-old window clerk, filed an occupational disease claim (Form CA-2) alleging that he sustained an anxiety disorder, post-traumatic stress disorder and bipolar disorder causally related to "stress of work situation." The reverse of the claim form indicated that appellant stopped working on May 19, 2003. By letter dated July 23, 2003, the

Office requested that appellant submit additional evidence with respect to his claim. The employing establishment submitted an undated letter stating that appellant was well liked by his peers and appellant appeared to enjoy his job, which had no required quotas. A supervisor stated that appellant had known since early 2003 that his job would be abolished due to a staff downsizing and that he would be reporting to the evening shift as a mail processing clerk. He reported that appellant had numerous nonjob-related problems in his life at this time. Appellant submitted a report dated September 19, 2003 from Dr. Jim Aukstuolis, a psychiatrist, who diagnosed bipolar disorder, post-traumatic stress disorder and anxiety disorder. He stated that appellant should seek alternative work without the stress of coping with the public.

By decision dated January 6, 2004, the Office denied the claim, finding that appellant had not submitted factual evidence with respect to his claim. Appellant requested an oral hearing before an Office hearing representative, which was held on September 2, 2004. At the hearing, appellant alleged that he worked long hours at the employing establishment; from 4:30 a.m. at the main post office and then from approximately 8:00 a.m. to 6:00 p.m. as a window clerk at another facility. Appellant alleged that he often could not leave the facility for breaks because other personnel were inexperienced. He stated that he did not sign the overtime list.

By decision dated February 14, 2005, the hearing representative affirmed the January 6, 2004 decision. The hearing representative noted that appellant had discussed working long hours without breaks, but had not submitted any supporting evidence to establish a compensable work factor in this case.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment.¹ This burden includes the submission of detailed descriptions of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.² It also includes the submission of rationalized medical opinion evidence on the issue of causal relationship between a diagnosed emotional condition and a compensable work factor.³

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's 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. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee's

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

² *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

³ *Ernest St. Pierre*, 51 ECAB 623, 626 (2000).

emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.⁴

A reaction to an administrative or personnel matter is generally not covered as it is not related to the performance of regular or specially assigned duties.⁵ Nevertheless, if the evidence demonstrates that the employing establishment erred, acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁶

ANALYSIS

In the present case, appellant did not initially describe the work factors he believed contributed to an emotional condition. At the hearing before the Office hearing representative appellant referred to his long working hours and the lack of experienced personnel to relieve him. While a compensable work factor may be established with respect to an allegation of overwork, there must be factual evidence submitted to corroborate and substantiate the allegation.⁷ In this case, appellant raised the issue of overwork, but did not submit any supporting documentation, witness statements, or any probative evidence to substantiate the allegation and establish a compensable work factor in this case. To the extent that he is alleging that there were administrative errors by the employing establishment with respect to adequate lunch breaks or other work breaks, appellant must submit probative evidence of error or abuse by the employing establishment.⁸

Without supporting evidence, the record does not establish a compensable work factor in this case. Since the record does not establish a compensable work factor, the Board will not address the medical evidence,⁹ other than to note that even if a compensable work factor is established, the evidence must contain a reasoned medical opinion on causal relationship between a diagnosed condition and the compensable work factor.

CONCLUSION

The Board finds that appellant did not establish an emotional condition causally related to compensable factors of his federal employment.

⁴ *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ *See Brian H. Derrick*, 51 ECAB 417, 421 (2000).

⁶ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

⁷ *See Bobbie D. Daly*, 53 ECAB 691 (2002) (where the claimant submitted several statements corroborating the allegation of overwork); *see also Robert Bartlett*, 51 ECAB 664 (2000).

⁸ *See Jeanobia Toombs*, 43 ECAB 464 (1992).

⁹ *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 14, 2005 is affirmed.

Issued: July 22, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board