United States Department of Labor
Employees' Compensation Appeals Board

J.F., Appellant	)	
and	)	**Docket No. 07-308**
	)	**Issued: January 25, 2008**
U.S. POSTAL SERVICE, POST OFFICE, North Reading, MA, Employer	)	

Appearances:
John M. Poti, Esq., for the appellant
No appearance, for the Director

Oral Argument July 12, 2007

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 2, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated August 4, 2006 which denied 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 the case.

ISSUE

The issue is whether appellant met his burden of proof in establishing that he sustained an emotional condition in the performance of duty.

FACTUAL HISTORY

On April 5, 1999 appellant, then a 43-year-old postal clerk, filed an occupational disease claim for depression, stress and anxiety due to factors of his federal employment. He alleged that he had been threatened several times at work by William Canada, a coworker, and that the threats continued despite intervention of postal authorities. Appellant went to his immediate supervisor on September 4, 1998 and to the postmaster on September 9, 1998 to request

assistance but experienced a lack of sympathy regarding the coworker's behavior and alleged that their comments aggravated his condition. Steve Ercha, appellant's supervisor, allegedly told appellant that he was a "big mouth troublemaker and you brought it on yourself." The postmaster told appellant "there is a different standard for management than craft" regarding threats of violence and that he should "see a doctor or resign." Appellant alleged that his condition was further aggravated after employing establishment personnel failed to talk to any of his witnesses and his case was closed. He stopped work on October 9, 1998 and did not return.

In a January 29, 1999 report, Dr. Chand K. Bhan, a Board-certified psychiatrist, diagnosed major depression and post-traumatic stress disorder. He opined that the conditions were "precipitated by problems at work." Dr. Bhan advised that appellant could not work at his present job. In a February 5, 1999 report, Robert L. Seyler, a licensed social worker, stated that in order for appellant to return to work, changes or some kind of resolution was necessary.

Appellant submitted a June 15, 1998 statement which he provided to the postal inspector. On June 10, 1998 he was allegedly threatened by Mr. Canada in the course of a discussion with Ron Wood, a shop steward, over why Mr. Canada was permitted to be on an overtime rotation while appellant was never asked. Mr. Canada came to appellant's work area and said: "Let's go outside right now." Appellant asked Mr. Wood if he would be a witness that Mr. Canada had threatened him. He went to his supervisor's office and alleged that Mr. Canada whispered that he would "kick my fucking ass." On June 13, 1998 appellant alleged that he was threatened by Jose Espinosa, a coworker. He stated that Mr. Espinosa must have witnessed the incident with Mr. Canada because he stated that "he had balls and I didn't." Appellant also alleged that Mr. Espinosa complained to him that a friend of his had walked away while Mr. Espinosa was talking to him. Mr. Espinosa became enraged, put his fist in appellant's face and said "he would like to smash it." Appellant stated that M. Finn and T. Valancourt, coworkers, were present when Mr. Espinosa threatened him.

Appellant contended that the postal investigator did not conduct a thorough investigation of these incidents and the case was closed before contacting his witnesses. After he returned to work, Mr. Espinosa continued to threaten him. On August 22, 1998, after entering the break room, Mr. Espinosa stated to another clerk, "[Appellant's] all talk and no action and has no balls like that guy there." When a union steward investigated this incident, he was told that the two men were talking about the postmaster. Appellant stated that he became frustrated, angry and anxious because Mr. Espinosa always escaped discipline. After he contacted the postal investigator, he was told "someone dropped the ball in Lawrence." Appellant believed this statement to mean that his supervisors should have contacted the postal investigator after Mr. Espinosa continued making threats. He advised that a crisis intervention specialist had spoken to Mr. Espinosa, who stated that appellant had misunderstood him and that he harbored no bad feelings.

Appellant alleged that, on September 4, 1998, Mr. Espinosa said "I'll put a bullet in his head," and believed that "he was talking about me, but I wasn't sure." After he told his supervisor of the incident, Mr. Ercha allegedly said, "you're a big-mouth troublemaker and you brought it all on yourself." Appellant became frustrated due to the lack of response. He left work and advised his supervisor that he would not return until after speaking to the postmaster. When meeting with the postmaster on September 9, 1998, the postmaster advised that the "case

was closed." The postmaster told appellant that he was provided with a safe environment and that if he did not feel that way he should "see a doctor or resign." Appellant subsequently stopped work. He submitted documents regarding workplace threats and violence.[1]

In a May 10, 1999 memorandum, Mr. Ercha stated that he notified the inspection service after appellant reported the incidents to him. He denied calling appellant a big mouth troublemaker. Mr. Ercha offered to keep appellant away from the alleged threatening employee by having him work away in another area. On June 2, 1999 the U.S. Postal Inspector advised management that further investigation was not warranted. Their report indicated that Mr. Canada and Mr. Espinosa were interviewed and both denied ever threatening appellant. Two witnesses, Mr. Wood and Scott Watkins, denied hearing any threats made towards appellant.

In a September 1, 1998 letter, Judith A. Farrell, intervention analyst, advised the postmaster that appellant still felt threatened after the inspection service investigation concluded. She spoke to Mr. Espinosa, who denied making any threat. Mr. Espinosa offered to talk to appellant to say that he had no bad feelings and did not intend any harm. Ms. Farrell noted that appellant was satisfied with Mr. Espinosa's responses and would return to work on September 2, 1998.

Appellant submitted medical evidence, including return to work and prescription slips from Dr. Perin Thavaseelan, an internist, who diagnosed work-related stress and opined that appellant should remain off work for certain periods. In an April 3, 1999 assessment, Dr. William Patterson, Board-certified in occupational and internal medicine, recommended that appellant be accommodated. On September 23, 1998 Dr. J. Gary Dolinsky, a clinical psychologist, diagnosed adjustment disorder with mixed anxiety, depressed mood and relational problems. He explained that appellant's condition was primarily related to personal factors. Dr. Dolinsky advised that appellant was able to return to work but might require a change in work environment in order to provide some peace of mind.

In a November 12, 1999 decision, the Office denied appellant's claim. The Office found that appellant had not established any compensable factor of employment.

Appellant requested a hearing that was held on March 21, 2000. He reiterated his allegations and noted that he was not currently working. Appellant submitted statements from James R. Smith and Karen Couthea, coworkers, who addressed their interactions with Mr. Espinosa. In a separate statement, a coworker advised that Mr. Ercha had used an epithet in speaking about a female coworker. After the hearing, appellant submitted a May 4, 2000 letter reiterating his allegations. In an April 17, 2000 report, Dr. Bhan diagnosed major depression and

[1] This included a policy statement from the employing establishment; a brochure on the topic from the Employee's Assistance Program; a joint statement on violence in the workplace by management and the union; an article in a postal newsletter and a newspaper article.

post-traumatic stress disorder and advised that appellant was disabled. Mr. Seyler noted in a March 15, 2000 letter that appellant remained in counseling.[2]

In a May 22, 2000 decision, the Office hearing representative affirmed the November 12, 1999 denial of appellant's claim.

Appellant requested reconsideration in a July 20, 2000 letter. He alleged that his managers had been aware of his disability and inability to work in the office, but made no effort to transfer him. Appellant submitted a 3105D form, contending that it established that he was not reassigned to work elsewhere. He submitted a statement from Betty Lou Morey, a supervisor, who advised that she met with appellant, Mr. Ercha and the postmaster on September 9, 1998, at which time appellant wanted management to reopen the investigation into the alleged incidents. The postmaster noted that he did not have authority to reopen an investigation by the postal inspector. Appellant advised that he did not feel safe and that it was the postmaster's responsibility. The postmaster pulled out a resignation form and told appellant that he could fill it out if he did not feel safe. In an April 28, 2000 statement, Mr. Ercha addressed the incidents, noting that it was a former employee who had stated that appellant was a big mouth troublemaker. At the September 9, 1998 meeting with the postmaster, appellant complained that he did not feel safe, became agitated and began to blame everyone for not doing enough. After the postmaster advised that management had done what it could, appellant stated that he would see a doctor and stop work. Appellant was advised that he could write another letter to the inspection service and the postmaster informed him of his options, including resignation. The postal managers agreed that a psychological fitness-for-duty examination and Employee Assistance Program referral were necessary.

In an October 19, 2000 decision, the Office denied modification of the May 22, 2000 decision.

On October 16, 2001 appellant requested reconsideration. He submitted an April 18, 2001 Merit Systems Protection Board (MSPB) decision overturning the denial of his application for a disability retirement by the Office of Personnel Management (OPM). The decision found that appellant had disabling medical conditions of depression and post-traumatic stress disorder allegedly stemming from a June 13, 1998 incident at work. In noting that appellant's version of the incident did not comport with the findings of the postal inspection service, the administrative judge stated:

> "However, deciding which version is the correct one is not important in determining whether appellant is entitled to disability retirement benefits. What is important is whether the incident, as viewed by appellant, caused him to truly develop the medical conditions he and his doctors claim he developed and whether those conditions render him disabled under the retirement law. Consequently, I recount the incident below solely from appellant's perspective."

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[2] Appellant also submitted a March 22, 2000 letter to the postmaster requesting a transfer on the advice of his doctors. Copies of superior achievement awards from the employing establishment and a letter of appreciation from the U.S. Army were also received.

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> "For 32 months appellant has been consistent in the details of his version of the June 13, 1998 incident and the postal service's reaction to his pleas for intervention/correction. In addition, from observing appellant's demeanor while testifying at the Board hearing, I find that he fervently believes in the truth of his version. To appellant, his perception that he is in danger at work and that management is doing nothing to thwart that danger is very real. Certain of his health care providers have also indicated their belief that the June 13, 1998 incident and its aftermath have been real to appellant and [have] adversely affected his psychological state."

Appellant noted that the MSPB judge made a finding that the employing establishment's assignment of appellant to a different part of the facility away from the coworker who threatened him was an unreasonable accommodation. In a February 22, 2001 report, Dr. Leo F. Polizoti, a licensed psychologist, indicated that appellant had post-traumatic stress disorder due to verbally assaultive behavior with threat of bodily harm that occurred by a coworker towards appellant in 1998 at work. He opined that appellant was permanently and totally disabled until the situation was resolved and appellant could reestablish a sense of security.

In a January 8, 2002 decision, the Office denied modification of the October 19, 2000 decision. It noted that the standards for determining entitlement to OPM retirement benefits differed from those establishing disability under the Federal Employees' Compensation Act and that the administrative judge based his decision solely on appellant's allegations without taking into account the evidence from the employer.

On January 7, 2003 appellant requested reconsideration. In a January 6, 2003 medical report, Dr. Clive Dalby, a Board-certified psychiatrist, stated that he had treated appellant on July 1, 2001. He diagnosed post-traumatic stress disorder and major depression. Dr. Dalby advised that appellant had no prior psychiatric illness and that his psychiatric conditions were related to work stress. In a January 5, 2003 note, Rick Marshall, a union steward, advised, "[o]n or about June 13, 1998, I recall overhearing J. Espinosa refer to [appellant] as having 'no balls,' on the workroom floor…."[3]

By decision dated June 12, 2003, the Office denied modification. It found that the statement of Mr. Marshall was not sufficient to establish that appellant was threatened by Mr. Espinosa.

On June 10, 2004 appellant, through his attorney, requested reconsideration contending that the Office erred in denying his claim as the investigation by the employing establishment was inadequate. He contended that the MSPB decision established administrative error and that the evidence established verbal abuse and harassment by his coworkers and supervisors.

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[3] Appellant also contended that Ms. Farrell was being forbidden from furnishing a statement in support of his claim.

In an August 6, 2004 statement, Joseph Faneiullo, postmaster, noted that appellant had brought to management's attention that he was threatened by coworkers. The inspection service was immediately contacted to investigate the matter and concluded that there was no evidence of any threats. Mr. Faneiullo noted that appellant was referred to the Employee Assistance Program counselor and scheduled for a fitness-for-duty examination. The agency's crisis intervention analyst also met with the alleged harasser and appellant was told of their meeting and had advised that he would return to work on September 2, 1998. Mr. Faneiullo noted that appellant was dissatisfied with the postal investigation report and on September 9, 1998 a meeting was held with him and his supervisors. He explained to appellant that no evidence of threats had been found and appellant had the option to return to work, transfer from the office, or resign if he felt he could not work. Mr. Faneiullo denied ever stating to appellant that there were different safety rules for management or craft or that he had ever discriminated against appellant.

In an August 26, 2004 decision, the Office denied modification of its prior decisions. It found that appellant submitted insufficient evidence to establish that the investigation was in error or abusive.

In a letter dated August 25, 2005, appellant requested reconsideration. He again contended that the investigation by the postal service had been inadequate. Appellant also argued that the Office failed to follow established procedures as it did not provide him with a copy of the postmaster's August 6, 2004 statement which contained material errors.[4]

In an August 4, 2006 decision, the Office denied modification of its prior decisions. It noted that, while the Office did not send appellant a copy of the postmaster's August 6, 2004 statement when received, a copy was subsequently sent to appellant on June 6, 2005 upon his request. Therefore, with his reconsideration request, appellant had the opportunity to rebut the employing establishment's response. The Office found that appellant did not submit evidence to establish his allegation of material errors in the postmaster's statement.

LEGAL PRECEDENT

To establish a claim that an emotional condition arose in the performance of duty, a claimant 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 the condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the emotional condition.[5]

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 employment but nevertheless does not come within the concept or

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[4] The record contains an employing establishment memorandum in opposition to appellant's request for reconsideration of an Equal Employment Opportunity (EEO) Commission decision which affirmed the postal service's decision not to reinstate appellant's complaint of unlawful employment discrimination.

[5] *D.L.,* 58 ECAB ___ (Docket No. 06-2018, issued December 12, 2006).

coverage of workers' compensation. Where the medical evidence establishes that the disability results from an employee's emotional reaction to his regular or specially assigned employment duties or to a requirement imposed by the employing establishment, the disability comes within coverage of the Act. The same result is reached when the emotional disability resulted from the employee's emotional reaction to the nature of his work or his fear and anxiety regarding his ability to carry out his work duties.[6] By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation law because they are not found to have arisen out of employment, such as when disability results from an employee's fear of reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.[7] An employee's emotional reaction to an administrative or personnel matter is generally not covered by workers' compensation. The Board has held, however, that error or abuse by the employing establishment in an administrative or personnel matter may afford coverage.[8]

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered. If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.[9]

The Board has held that allegations, alone, by a claimant are insufficient to establish a factual basis for an emotional condition claim but must be substantiated by the evidence.[10] Mere perceptions and feelings of harassment or discrimination will not support an award of

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[6] *Ronald J. Jablanski*, 56 ECAB 616 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

[7] *Id.*

[8] *Margreate Lublin*, 44 ECAB 945 (1993). *See generally Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.,* 42 ECAB 566 (1991).

[9] *D.L., supra* note 5; *T.G.,* 58 ECAB ___ (Docket No. 06-1411, issued November 28, 2006); *C.S.,* 58 ECAB ___ (Docket No. 06-1583, issued November 6, 2006); *A.K.*, 58 ECAB ___ (Docket No. 06-626, issued October 17, 2006).

[10] *Charles E. McAndrews*, 55 ECAB 711 (2004); *see also Arthur F. Hougens*, 42 ECAB 455 (1991) and *Ruthie M. Evans,* 41 ECAB 416 (1990) (in each case, the Board looked beyond the claimant's allegations to determine whether or not the evidence established such allegations).

compensation. The claimant must establish such allegations with probative and reliable evidence.[11]

With regard to claims under the Act, the Board has held that the determination of an employee's rights or remedies under other statutory authority does not establish entitlement to benefits under the Act. Under the Act, to establish disability, an employee's injury must be shown to be causally related to an accepted injury or accepted factors of his or her federal employment. For this reason, the determinations of other administrative agencies or courts, while instructive, are not determinative with regard to disability arising under the Act. Findings made by the MSPB or EEO Commission may constitute substantial evidence relative to a claim to be considered by the Office and the Board.[12]

ANALYSIS

Appellant attributed his emotional condition to threats made by Mr. Canada and Mr. Espinosa, coworkers, and to an inadequate investigation into his complaints by management and the postal investigation service. The Office found that appellant did not submit sufficient evidence to support his allegations as factual and denied the claim as no compensable factor of employment was established.

Appellant alleged that he was threatened by Mr. Canada on June 10, 1998 after complaining to Mr. Wood that Mr. Canada was permitted on an overtime rotation list while appellant had not been asked. He stated that Mr. Canada came to his workspace and threatened him by saying "let's go outside" and had whispered to him that he would "kick my fucking ass." Appellant alleged that on June 13, 1998 he was threatened by Mr. Espinosa, who placed his fist in appellant's face and stated that he would like to "smash it." He alleged that, on August 22, 1998, Mr. Espinosa apparently made a comment to another clerk that appellant was "all talk and no action and has no balls." On September 4, 1998 appellant alleged that Mr. Espinosa threatened to "put a bullet in his head"; noting that he believed this comment to be directed at him, but he was not sure.

The Board has recognized the compensability of physical threats and verbal abuse in certain circumstances.[13] In such cases, the Board has reviewed the evidence of record to determine whether the allegations of the claimant are substantiated by reliable and probative evidence. This is where appellant's claim fails. The record establishes that appellant notified his supervisor, Mr. Ercha, of threats made by Mr. Canada and Mr. Espinosa. In turn, the postal service investigative service was contacted and it conducted an investigation into his complaints.

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[11] *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) (it was found that the employee failed to establish the incidents or actions characterized as harassment).

[12] *See Beverly R. Jones*, 55 ECAB 411 (2004).

[13] *See Leroy Thomas, III,* 46 ECAB 946, 954 (1995) (the employee did not establish as factual that a supervisor threatened to kill him); *Alton L. White*, 42 ECAB 666, 669-70 (1991) (the employee established physical contact by his supervisor as a compensable factor).

By letters day June 2 and 3, 1999, the postal inspector advised that it had interviewed Mr. Canada and Mr. Espinosa in addition to Mr. Wood and Mr. Watkins. Mr. Canada and Mr. Espinosa denied making threats as alleged by appellant and Mr. Wood and Mr. Watkins also denied hearing any threats made against appellant on those dates. The postal inspector determined that it could not be determined that a credible threat against appellant was made on either June 10 or 13, 1998. The matter was referred to the intervention analyst, Ms. Farrell, who advised the postmaster that appellant felt threatened following the investigation and that she spoke with Mr. Espinosa, who again denied making any threat. Mr. Espinosa offered to speak to appellant to say that there were not hard feelings. She communicated this information to appellant, who indicated to her that he would return to work.

The Board finds that appellant's complaints of threats by coworkers were investigated by the postal service. It determined that there was insufficient evidence to substantiate his allegations. Mr. Wood, an individual identified by appellant as present on June 10, 1998, did not support his description of threats by Mr. Canada. Ms. Farrell spoke to Mr. Espinosa who denied having threatened appellant as alleged. Appellant has not provided sufficient evidence to establish his version of the incidents on those dates. The Board notes that he did not submit any statements from Mr. Finn or Mr. Valancourt in support of his allegations concerning the June 13, 1998 incident. Rather, appellant contends that it was an error on the part of the postal inspector and Ms. Farrell not to secure statements from these individuals. However, in a claim under the Act, he bears the burden of proof to substantiate his allegations with probative and reliable evidence. Appellant did secure statements from Mr. Smith and Ms. Couthea, as noted. However, these statements are not sufficient to establish his allegations of being threatened by Mr. Espinosa. The statements of his coworkers addressed interactions they had with Mr. Espinosa. They do not address the specifics of any allegations raised by appellant to the postal authorities concerning June 13, 1998 or the comments attributed to Mr. Espinosa of August 22 and September 4, 1998. Appellant even stated that he was unsure whether Mr. Espinosa had directed the comments of September 4, 1998 to him.

Appellant provided a January 5, 2003 note from Mr. Marshall, who stated that he recalled overhearing Mr. Espinosa refer to appellant as having "no balls" on or about June 13, 1998. However, this brief statement is of diminished probative value as it does not address how Mr. Marshall knew Mr. Espinosa's comment was specifically directed at appellant or whether he was present during the June 13, 1998 incident. The Board notes that appellant did not attribute the "no balls" comment to the June 13, 1998 incident; rather he alleged that the June 13, 1998 event concerned Mr. Espinosa putting a fist in his face and saying he would like to "smash it." Appellant stated that the "no balls" comment was made by Mr. Espinosa on August 22, 1998, after he entered a break room. This evidence is insufficient to establish appellant's allegations as factual. Appellant did not explain why similar statements could not be obtained from Mr. Finn or Mr. Valancourt, noting only that they might be reluctant to become involved.

After receiving the results of the postal inspection, Ms. Farrell noted that appellant would return as of September 2, 1998. The September 9, 1998 meeting was held to facilitate his return to work. The statement of Ms. Morey noted that appellant wanted management to reopen the investigation. Her description of the meeting does not provide support for appellant's allegations that his supervisor or the postmaster erred in the investigation process. Appellant was advised by the postmaster that the employing establishment had done what it could and he did not have the

authority to reopen the investigation. Mr. Ercha noted that appellant contended that management had not done enough and was advised that he could make another written request to the postal inspection service. The postmaster advised that the investigation was closed and that appellant's options were to return to work, transfer or resign. Appellant stated that he would see a physician and stopped work.

An investigation by the employing establishment is an administrative matter.[14] Generally, actions of the employing establishment in administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties, do not fall within coverage of the Act. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of personnel matters, coverage may be afforded.[15] The Board finds that the evidence of record is insufficient to establish administrative error or abuse in the investigation of appellant's complaints. The record reflects that appellant was dissatisfied with the outcome of the investigation, contending that Mr. Espinosa always escaped discipline. The record, however, does not establish his allegations as factual.

Appellant stated that he felt lost and betrayed by a lack of sympathy over his concerns regarding Mr. Espinosa and alleged that comments by his superiors aggravated his condition. Appellant alleged that Supervisor Ercha said that he was a "big mouth trouble maker and you brought it on yourself" and that the postmaster told him that there was a different standard for management than craft regarding threats of violence. Mr. Ercha denied calling appellant a "big mouth troublemaker" and explained that a former employee had once called appellant a troublemaker and that he asked appellant whether he was bringing this on himself. Mr. Faneiullo denied telling appellant that there were different safety rules for management or craft. Appellant's allegations are not supported by the statements of Ms. Morey or Mr. Ercha.

Appellant contends that the decision of the MSPB established administrative error on the part of the employing establishment. The Board has carefully reviewed the decision, and finds that it is not probative to his claim under the Act. The April 18, 2001 decision set aside a determination of OPM denying appellant's application for a disability retirement. The administrative judge noted the disparity between the findings of the postal inspection and appellant's allegations concerning his underlying emotional condition. He stated that "deciding which version is correct" was not important to determining appellant's eligibility to disability retirement benefits; what was important was appellant's view of the alleged incidents. Consequently, the administrative judge's review of the claim was "solely from appellant's perspective." He found that the perception of being in danger at work and that management had done nothing to thwart the danger was very real to appellant. The administrative judge determined that appellant's relocation to sort parcels in a different area at the employing establishment was not a reasonable accommodation, noting that "the coworker could, if he were so inclined, readily locate the appellant and confront him."

In proceeding under the Act, the Board has held that an employee must establish a factual basis for his or her emotional condition claim and that mere perceptions of harassment or

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[14] *Jimmy B. Copeland*, 43 ECAB 339 (1991).

[15] *Michael Thomas Plante,* 44 ECAB 510 (1993).

discrimination will not support an award of compensation.[16] The primary reason for requiring factual evidence from the claimant in support of his or her allegations of stress in the workplace is to establish a basis in fact for the contentions made, as opposed to mere perceptions, which in turn may be fully examined and evaluated by the Office and the Board.[17] While appellant's perceptions of dangers and threats at work were found sufficient to support his application for a disability retirement, such perceptions have not been established as having a basis in fact by the evidence of record presently before the Board. As his various allegations of threats by Mr. Canada or Mr. Espinosa have not been established and his perceptions of other "dangers" at work are vague, the finding by MSPB that the parcel sorting assignment was unreasonable lacks adequate support in this proceeding under the Act. Appellant's dissatisfaction with the investigation of his complaints and his perceptions of threats must be considered self-generated. He has not substantiated a compensable factor of employment.

CONCLUSION

The Board finds that appellant has not established that his emotional condition arose in the course of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the August 4, 2006 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: January 25, 2008
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

[16] *Charles E. McAndrews*, 55 ECAB 711 (2004).

[17] *See Mary J. Summers,* 55 ECAB 730 (2004); *Paul Trotman-Hall*, 45 ECAB 229, 236 (Groom, M.E., concurring).