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BRADFORD O. MERKLE, Appellant)	
)	
and)	Docket No. 04-184
)	Issued: February 27, 2004
U.S. POSTAL SERVICE, POST OFFICE,)	
Seattle, WA, Employer)	
)	
)	

Case Submitted on the Record

Before:
COLLEEN DUFFY KIKO, Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

On October 27, 2003 appellant filed a timely appeal from an Office of Workers' Compensation Programs' decision dated September 22, 2003, denying his emotional condition claim. Under 20 C.F.R §§ 501.2(c), 501.3, the Board has jurisdiction over the merits of this case.

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

Appellant, a 52-year-old mail driver, filed an emotional condition claim on November 25, 2001. He asserted that management had expressed a lack of concern over a broken security door that he was unable to close. As a result of this alleged disregard, appellant experienced stress, anger, depression and lack of sleep. Appellant submitted a November 28,

2001 report from Dr. Charles E. Thompson, a psychiatrist, who stated that appellant had sustained a severe exacerbation of preexisting post-traumatic stress disorder (PTSD) related to a security issue in his work.

By letter dated December 18, 2001, the Office advised appellant that he needed to submit additional information in support of his claim. The Office requested that he submit additional medical evidence in support of his claim, including a comprehensive medical report and provide factual evidence, which would establish that he had developed an emotional condition caused by factors of his employment.

The employing establishment submitted a January 7, 2002 statement controverting appellant's claim. The employing establishment contended that appellant's frustration, dissatisfaction and anger with management regarding the security issue of the north dock door was an administrative matter and that any emotional condition that appellant sustained was self-generated. The employing establishment submitted statements from three of appellant's coworkers which indicated that appellant had informed management about a faulty lock on the door abutting the north dock of the building, which failed to close properly. The employees noted that appellant was highly concerned about this situation and how it affected the building's security. They stated that building maintenance, which was responsible for securing the building's outer doors, had been notified regarding the situation; however, they were not aware of whether the door had been fixed.

By decision dated January 30, 2002, the Office denied appellant's compensation for an emotional condition, finding that there was no evidence of error or abuse with respect to the alleged employment incident.

In a report dated January 25, 2002, Dr. Thompson noted that appellant suffered from PTSD stemming from his military service during the Vietnam War. He diagnosed a hyper-vigilance/paranoia, 80 percent severity, which involved a deep, all-consuming, daily fear of an impending assault that will occur in retaliation "for trying to get his supervisor to keep our station safe from terrorist actions." Dr. Thompson related that appellant felt compelled to keep a loaded shotgun with the safety off by the door at all times. He noted that appellant experienced spontaneous, untriggered memories of combat trauma on a daily basis which were triggered by reminders of his job stressors. Dr. Thompson stated that appellant's psychological profile was consistent with major depression and opined that the job stress triggered severe PTSD exacerbation which continued to worsen. The symptoms included presentation of paranoia which could indicate the onset of psychotic features. Dr. Thompson's prognosis for appellant's return to the employing establishment was zero and he advised that, due to the nature of the stressor triggering his deterioration, medical retirement was appropriate. Dr. Thompson stated:

"[Appellant] reported that discovering an obvious security breach at [the employing establishment] during the period when fears of terrorist attacks *via* the mail, such as the anthrax spore disseminations via letter, were quite high nationally was itself an immediate trigger of PTSD, hypervigilance, anxiety, depression, fear of being considered culpable by association [with] civilian or post office employee deaths resulting from the security breach, insomnia, nightmares, intrusive memories, problems with attention, concentration, short term memory. His attempts to have the security breach remedied *via* administrative staff of the

station reportedly resulted in a perceived lack of remedial response by authority figures, and harassment and humiliation by supervisors and coworkers. These stressors further exacerbated the PTSD symptomatology and made the entire work environment intolerable. Attempts at return to work following a two week leave were unsuccessful primarily due to persisting harassment which [appellant] felt was intended to drive him to resign from the employing establishment.”

By letter dated February 5, 2002, appellant requested an oral hearing, which was held on June 17, 2003.

By decision dated September 22, 2003, an Office hearing representative affirmed the January 30, 2002 Office decision. The hearing representative found that securing the facility doors was not part of appellant’s job duties and his anxiety was self-generated.

LEGAL PRECEDENT

To establish that an emotional condition was sustained in the performance of duty there must be factual evidence identifying and corroborating employment factors or incidents alleged to have caused or contributed to the condition, medical evidence establishing that the employee has an emotional condition, and rationalized medical opinion establishing that compensable employment factors are causally related to the claimed emotional condition.¹ There must be evidence that implicated acts of harassment or discrimination did, in fact, occur supported by specific, substantive, reliable and probative evidence.²

The first issue to be addressed is whether appellant has established a compensable factor of employment that contributed to his emotional condition or disability. 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 Federal Employees’ Compensation Act.³ On the other hand, disability is not covered where it results from an employee’s fear of a reduction-in-force, frustration from not being permitted to work in a particular environment or to hold a particular position, or to secure a promotion. Disabling conditions resulting from an employee’s feeling of job insecurity or the desire for a different job do not constitute a personal injury sustained while in the performance of duty within the meaning of the Act.⁴

ANALYSIS

The Board finds that the evidence of record does not establish that the administrative and personnel actions taken by management in this case constitutes error. An employee’s emotional reaction to an administrative or personnel matter is not covered under the Act, unless there is

¹ See *Debbie J. Hobbs*, 43 ECAB 135 (1991).

² See *Ruth C. Borden*, 43 ECAB 146 (1991).

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Id.*

evidence that the employing establishment acted unreasonably.⁵ However, error or abuse by the employing establishment in an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in the administration of a personnel matter, may afford coverage.⁶ Appellant has failed to demonstrate any error or abuse on the part of management with respect to the situation in which he reported that a security door abutting the north dock was broken and would not close properly. The evidence of record indicates that appellant's complaints about the broken door were properly referred to the maintenance department, the unit responsible for maintaining and repairing the building's physical plant. Appellant indicated in a January 2, 2002 statement that the door was secured the day after he reported the problem. The Board finds that appellant has provided insufficient evidence to establish that the employing establishment acted unreasonably or committed error in discharging its administrative duties with regard to this incident.

The Board has held that emotional reactions to situations in which an employee is trying to meet his position requirements are compensable.⁷ However, appellant has not submitted evidence indicating that the required duties of his mail driver job involved ensuring the security of the building. For this reason, the Board finds that appellant has not established that his emotional condition arose from the performance of his regular or specially assigned duties.⁸

The Board further finds that appellant has failed to establish that management engaged in a pattern of harassment. Appellant has not submitted any factual evidence to support his allegations that he was harassed, mistreated or treated in a discriminatory manner by his supervisors. He alleged, in general terms, that his supervisors at the employing establishment harassed him in retaliation for his complaints about the broken door. However, he did not provide a description of specific incidents or sufficient supporting evidence to substantiate his allegations. The Board finds that the allegations were not established as factual as alleged by appellant, as he failed to provide supporting evidence for his allegations. As such, appellant's allegations constitute mere perceptions or generally stated assertions of dissatisfaction with a certain superior at work which do not support his claim for an emotional disability.⁹

The Board notes that, since appellant has not established a compensable work factor, the medical evidence will not be considered.¹⁰

⁵ See *Alfred Arts*, 45 ECAB 530, 543-44 (1994).

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

⁷ See *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

⁸ See *Cutler*, *supra* note 3.

⁹ See *Curtis Hall*, 45 ECAB 316 (1994); *Kathleen D. Walker*, 42 ECAB 603 (1991).

¹⁰ See *Margaret S. Krzycki*, 43 ECAB 496 (1992).

CONCLUSION

The Board finds that the Office properly found that appellant failed to meet his burden of proof to establish that he sustained an emotional condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the September 22, 2003 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: February 27, 2004
Washington, DC

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member