

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALAN M. TESHIMA and U.S. POSTAL SERVICE,
POST OFFICE, Medford, Oreg.

*Docket No. 96-1625; Submitted on the Record;
Issued March 25, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has sustained an emotional condition in the performance of duty causally related to compensable factors of his federal employment.

The Board has reviewed the case record and finds that appellant has not established an employment-related emotional condition.

On May 23, 1994 appellant, then a 38-year-old postal clerk, filed a claim alleging that he sustained stress from his federal employment. In a narrative statement, appellant further discussed his claim. Appellant indicated that he experienced stress because he was not given enough time to complete his duties in the back section. He further indicated that stress resulted from the employing establishment's failure to respond to his requests for a supervisory position and future career opportunities. Appellant also stated that he suffered stress when he requested an annual appraisal and one was not provided. Finally, appellant indicated that stress resulted when passport training was denied and when his work improvement suggestions were ignored.

The employing establishment responded that appellant's job duties as a window clerk required him to spend time away from the back section and attend a service window. The employing establishment also indicated that, although appellant filled out a form to obtain a supervisory position, he never applied for a specific position despite instructions on how to do so. The employing establishment indicated that appellant never requested an annual appraisal. It further stated that passport training was not a part of appellant's job duties, but that it did allow some training upon the insistence of appellant.

Appellant clarified his initial statement during a hearing held on January 5, 1995. He again indicated that he could not keep up with his work in the back section and requested help in doing so. He restated that the employing establishment failed to respond to his application for a supervisory position and his request for future career opportunities. Appellant also stated that his request for an annual appraisal was ignored. Furthermore, appellant again indicated that work suggestions were ignored and that he was denied passport training. Finally, appellant indicated that he experienced stress from not being allowed to serve as a temporary supervisor.

The initial question presented in an emotional condition claim is whether appellant has alleged and substantiated compensable factors of employment as contributing to his condition. 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 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.¹

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.² To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.³

In the present case, appellant alleges that he experienced stress as a result of not being able to complete his duties in the back section because he was required to attend to a service window. The record, however, reveals that appellant's job duties provided for this interruption and that, therefore, appellant was not required to strictly attend to and complete all his back section duties. Because appellant's regular duties did not include the uninterrupted completion of his back section duties, appellant stress over completing these tasks is self-generated and, therefore, noncompensable.⁴

Appellant further alleged that he experienced stress from the employing establishment's failure to respond to his requests for a supervisory position and future career opportunities. The denial of a promotion is administrative in nature and is not a compensable factor of employment absent evidence of error or abuse.⁵ In this case, appellant failed to present any evidence that the employing establishment erred or acted abusively in denying him promotions or career opportunities. In fact, the employing establishment indicated that appellant simply failed to follow the proper procedure by applying for a specific promotion.

¹ *Lillian Cutler*, 28 ECAB 125 (1976).

² *Pamela R. Rice*, 38 ECAB 838 (1987).

³ *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁴ *See Lillian Cutler*, *supra* note 1.

⁵ *Martha L. Watson*, 46 ECAB 407 (1995).

Appellant also stated that he suffered stress when he requested an annual appraisal and one was not provided. Performance appraisals are also administrative actions which are not compensable absent error or abuse.⁶ Appellant failed to present any evidence establishing error and abuse concerning his performance appraisal. Consequently, he did not allege a compensable factor.

Finally, appellant indicated that stress resulted when passport training was denied and when his work improvement suggestions were ignored. Appellant's desire to learn new tasks and his desire to change office procedures do not arise within the performance of duty and are not compensable.⁷

The Board accordingly finds that appellant has not alleged and substantiated a compensable factor of employment. The Office, therefore, properly denied the claim. Because no compensable factor of employment was alleged, the Board will not address the medical evidence.⁸

The decision of the Office of Workers' Compensation Programs dated March 26, 1996 is affirmed.

Dated, Washington, D.C.
March 25, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ *Sammy N. Cash*, 46 ECAB 419 (1995).

⁷ *Paul Gregg*, 46 ECAB 624 (1995).

⁸ *Margaret S. Krzycki*, 43 ECAB 496 (1992).