

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES R. GREEN and U.S. POSTAL SERVICE,
POST OFFICE, Caseville, MI

*Docket No. 02-2127; Submitted on the Record;
Issued May 19, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant's emotional condition was causally related to employment factors.

On January 25, 2001 appellant, then a 49-year-old postmaster, filed an occupational disease claim, alleging that his hypertension, gastroesophageal reflux disease and emotional stress were caused by incidents at work. Appellant stopped work on January 2, 2001.

Appellant stated that, during the 11 years he was postmaster at Caseville Post Office, he and his family were subjected to hostility and nonacceptance by the community because he was an outsider. He claimed that his cars were keyed, he was verbally attacked and spit upon at the employing establishment window, he received late night telephone calls and his life was threatened twice. He was under pressure to reduce his employees' working hours, which increased his workload.

Appellant was transferred to St. Helen Post Office in October 2000, on the advice of his doctor, but claimed that he met the same sort of hostility. Appellant stated that the previous postmaster persuaded customers to complain about him, encouraged employees to question every direction and circulated outrageous rumors -- that he was going to "shoot up" the employing establishment, that he screamed at employees and that he made sexual gestures. Appellant added that one employee repeatedly said that she would do everything in her power to get him fired.

Appellant related that an employee named Kelly Hanlon accused him of "stalking" her and threatening to kill her and her family, after he changed her assignment. A coworker provided a signed statement that appellant did not yell at his employees and that Ms. Hanlon's behavior belied her stories about appellant. The police chief denied that Ms. Hanlon had filed any report that appellant was stalking her and threatening to kill her and her family. Appellant was actually in his doctor's office at the time.

The employing establishment controverted the claim and submitted a signed statement from the former St. Helen Postmaster denying appellant's allegations vigorously. A document from the employing establishment praised appellant's work efforts at both employing establishments. Statements from coworkers, including Ms. Hanlon, related that no one had ever told them to solicit complaints about appellant from customers.

On May 4, 2001, after receiving a report from Dr. Lawrence E. Harrelson, a licensed clinical psychologist who began treating appellant in May 1999, the Office of Workers' Compensation Programs denied the claim. The Office found that the single compensable factor established by appellant -- that he was given a strict annual budget that required him to reduce employees' hours -- was not causally related to his emotional condition. The Office also found that none of the other allegations had been proven because appellant had provided no corroborating evidence.

Appellant requested a hearing, which was held on December 20, 2001. Appellant's representative subpoenaed Ms. Hanlon and Robert Harris, acting postmaster, during appellant's absence. At the hearing, appellant testified that he was giving a safety, no-tolerance talk to employees, during which he made the unfortunate comment that, due to the lack of security, anybody, even he, could come in and shoot up the post office. He added that he was trying to make the point in an effort to get two employees "to quit" fighting.

Appellant stated that the so-called stalking incident took place when Ms. Hanlon told coworkers that she had seen appellant's car outside the employing establishment and was "afraid" to go out. But when others went to see, the car was gone. Appellant had been out of town that day.

Appellant testified that despite the heavy production requirements, he did his job the entire time, had an excellent work record, got outstanding merit reviews and was the key training postmaster.

Mr. Harris described the employing establishment's investigation of the complaints he received about appellant's "shoot-up" remark and employees' allegations of sexual harassment and stalking. He stated that the hypothetical remark was made in the context of a safety meeting and that some employees interpreted it as threatening. Mr. Harris added that, during the so-called stalking incident, appellant was at a doctor's appointment at the time and that no police report had been filed. He added that, while two employees had complained that they felt threatened by appellant's demeanor at work, other employees did not and there was no sexual harassment.

On April 22, 2002 the hearing representative denied appellant's claim on the grounds that his allegations were either not proven or not within the performance of duty and that the medical evidence was insufficient to establish that the compensable work factor caused his emotional condition.

The Board finds that appellant has failed to establish that his emotional condition was sustained while in the performance of duty.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment.¹ There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the coverage of the Federal Employees' Compensation Act. These injuries occur in the course of the employment but nevertheless are not covered because they are found not to have arisen out of the employment.²

In an emotional condition claim, appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that the emotional condition for which he claims compensation was caused or adversely affected by factors of his federal employment. To establish 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

The Board has long held that a claimant's allegations alone are insufficient to establish compensable work factors without probative and reliable evidence corroborating the allegations.⁴ The claimant must substantiate such allegations by submitting a detailed description of specific employment factors or incidents that he believes caused or adversely affected his condition.⁵ Personal perceptions and feelings alone are not compensable under the Act.⁶

In emotional condition cases, the Office 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 to be factors of employment and may not be considered.⁷ Therefore, the initial question is whether appellant has alleged compensable factors of employment that are substantiated by the record.⁸

In this case, appellant was frustrated and upset about the hostile work environment he perceived at the two post offices he supervised. However, appellant provided no supporting evidence to support his allegations. First, appellant alleged that the previous postmaster urged employees to solicit customers to complain about appellant's work and to ignore appellant's work directives. However, Postmaster Paula Lynch denied these charges as "ludicrous" and

¹ *Samuel Senkow*, 50 ECAB 370, 373 (1999).

² *Frank B. Gwozdz*, 50 ECAB 434, 436 (1999).

³ *Wanda G. Bailey*, 45 ECAB 835 (1994); *Kathleen D. Walker*, 42 ECAB 603, 608-09 (1991).

⁴ *Joe E. Hendricks*, 43 ECAB 850, 857-58 (1992).

⁵ *Peggy Ann Lightfoot*, 48 ECAB 490, 493 (1997); *Joel Parker, Sr.*, 43 ECAB 220, 225 (1991).

⁶ *Earl D. Smith*, 48 ECAB 615, 650 (1997).

⁷ *Margaret Kryzcki*, 43 ECAB 496, 502 (1992).

⁸ *Donald E. Ewals*, 45 ECAB 111, 122 (1993).

stated that she would never encourage employees to engage in discourteous behavior. Five employees submitted statements that they had never been asked to encourage customer complaints against appellant or anyone.

Second, appellant alleged that employees were spreading outrageous and slanderous statements about him, concerning his “shoot-up-the-post-office” remark, sexually harassing comments and conversations, the stalking incident and verbal abuse of employees. However, appellant admitted at the hearing that he had mentioned how easy it would be for someone, even he, to stage a shooting incident, given the lack of security. He provided no evidence of any specific remarks made by employees, however, on any of these subjects. An employee stated that she had never heard appellant yell at any of them.

The Office found one of appellant’s allegations to be in the performance of duty and asked appellant’s psychologist to address whether the strict budget constraints under which appellant operated annually was the cause of his emotional condition.

In an April 10, 2001 report, Dr. Harrelson reviewed his treatment of appellant since May 1999 and the history of appellant’s experiences at the two post offices. Dr. Harrelson stated that appellant had been handling his stress when last seen on October 28, 1999, but returned on January 25, 2001 after he had been placed on sick leave by his treating physician, Dr. Russell Struble, Board-certified in family practice.⁹ Appellant had become postmaster at the St. Helen Post Office in October 2000 and his stress condition had subsequently worsened. Dr. Harrelson diagnosed major depressive disorder, “clearly related to [appellant’s] employment. He is not psychotic and he does not have a personality disorder. He did not have a major mood disorder until the situation in which he found himself escalated beyond any reasonable control. At this point he would be unable to return to a postmaster position because of his current depression.”

These reports are insufficient to establish that dealing with budget problems was the cause of appellant’s depressive disorder because Dr. Harrelson did not attribute appellant’s condition to this compensable work factor. Both he and Dr. Struble generally stated that work stress was causing appellant physical and mental problems. However, neither provided a well-rationalized opinion on how the compensable work factor impacted appellant’s physical or emotional condition.

Dr. Harrelson indicated that, because appellant was not psychotic and had no depressive disorder prior to being transferred to the St. Helen Post Office at his request, subsequent events in the new environment caused his worsening mental condition. However, the Board has long held that because a claimant was symptom-free prior to a specific incident or work exposure and symptomatic afterwards does not establish that the incident or exposure caused the symptoms.¹⁰

⁹ Dr. Struble stated in a January 11, 2001 report that appellant had significant occupational stress causing numerous physical abnormalities such as hypertension, gastroesophageal reflux disease and emotional distress. On January 20, 2000 Dr. Struble stated that appellant had a lot of work-related stress and that his emotional and physical health would improve with a change to a less stressful environment.

¹⁰ *Cleopatra McDougal-Saddler*, 47 ECAB 480, 489 (1996).

Here, the fact that appellant's mental condition worsened after two months at St. Helen Post Office is not a basis for attributing the diagnosed depressive disorder to work factors.¹¹

Appellant alleged a hostile work environment at both post offices but provided no evidence to establish specific incidents of employee defiance of his orders or sabotage of his work efforts. At the hearing, Mr. Harris testified about the employing establishment's investigation of the alleged "shoot-up" remark and the stalking incident. He stated that appellant proved that he was nowhere near the post office at the time of Ms. Hanlon's stalking allegation, that two employees had taken appellant's remark out of context, and that the investigation resulted in no disciplinary action, although appellant was advised to "stay away" from Ms. Hanlon.

Appellant testified that he complained that the employing establishment failed to conduct a thorough and proper investigation of these matters. Absent any evidence of error or abuse on the part of the employing establishment, administrative matters are not covered under the Act.¹² Here, Mr. Harris explained the employing establishment's actions in dealing with complaints and allegations and appellant has submitted no evidence establishing any error or abuse in the agency's handling of the various situations.¹³

The April 22, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
May 19, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

¹¹ See *Thomas R. Horsfall*, 48 ECAB 180, 183 (1996) (finding that a physician's opinion on causal relationship, which is based on the fact that appellant was asymptomatic prior to the work incident and symptomatic afterwards, is of little probative value without supporting rationale).

¹² *Robert Knoke*, 51 ECAB 319, 321 (2000).

¹³ See *William Karl Hansen*, 49 ECAB 140, 144 (1997) (finding that appellant's frustration with the policies and procedures of management do not constitute compensable work factors absent a showing of error or abuse).