

On December 17, 2001 appellant, then a 45-year-old postal worker, filed an occupational disease claim alleging that he sustained hypertension and new onset diabetes mellitus due to his work. He stopped work on December 10, 2001 and did not return. By letter dated January 7, 2002, the Office requested that appellant submit additional factual and medical evidence in support of his claim. He submitted various medical reports concerning his

hypertension, diabetes and emotional state. In a statement dated January 9, 2002, appellant claimed that he sustained stress because in July 2000 he was wrongly accused of forging a physician's signature and was "kicked out" of the employing establishment for four days as a result. He also indicated that his supervisors did not place him on the limited-duty work recommended by his physicians.

By decision dated March 19, 2002, the Office denied appellant's claim on the grounds that he did not establish any compensable employment factors. He then submitted a July 22, 2002 statement in which he stated that a supervisor harassed and humiliated him because "the doctor told me not to use my left wrist for ten days and also for forgery." Appellant detailed instances in November and December 2001 when supervisors told him that they could not give him work which was appropriate to his work restrictions. He asserted that these actions had left him emotionally distressed. Appellant also submitted additional medical evidence. By decision dated September 24, 2002, the Office affirmed its March 19, 2002 decision.

LEGAL PRECEDENT

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 an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.¹ On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.²

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 employment factors.³ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁴

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

¹ 5 U.S.C. §§ 8101-8193.

² See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

³ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁴ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

factors of employment and may not be considered.⁵ 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.⁶

ANALYSIS

In the present case, appellant alleged that he sustained a stress-related condition in the form of hypertension, diabetes and emotional distress as a result of a number of employment incidents and conditions. By decision dated March 19, 2002, the Office denied his emotional condition claim on the grounds that he did not establish any compensable employment factors. By decision dated September 24, 2002, the Office affirmed its March 19, 2002 decision. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

Appellant alleged that he sustained stress because in July 2000 he was wrongly accused of forging a physician's signature and was "kicked out" of the employing establishment for four days as a result. He also indicated that, on several occasions, including instances in November and December 2001, his supervisors did not place him on the limited-duty work recommended by his physicians. Regarding appellant's allegations, that the employing establishment engaged in improper disciplinary actions and improperly assigned work duties, the Board finds that these allegations relate to administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties and do not fall within the coverage of the Act.⁷ Although the handling of disciplinary actions and the assignment of work duties are generally related to the employment, they are administrative functions of the employer and not duties of the employee.⁸ However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.⁹ Appellant did not submit sufficient evidence to establish that the employing establishment committed error or abuse with respect to these matters. He submitted an Equal Employment Opportunity complaint regarding the alleged forgery, but there is no document of record which details the result of this complaint. Thus, appellant has not established a compensable employment factor under the Act with respect to administrative matters.

⁵ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁶ *Id.*

⁷ See *Janet I. Jones*, 47 ECAB 345, 347 (1996); *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

⁸ *Id.*

⁹ See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

Appellant also suggested that he was harassed and discriminated against by supervisors in connection with the alleged forgery and his need for work restrictions. To the extent that disputes and incidents alleged as constituting harassment and discrimination by supervisors are established as occurring and arising from appellant's performance of his regular duties, these could constitute employment factors.¹⁰ However, for harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment or discrimination are not compensable under the Act.¹¹ In the present case, the employing establishment denied that appellant was subjected to harassment or discrimination and appellant has not submitted sufficient evidence to establish that he was harassed or discriminated against by his supervisors.¹² Appellant only made general claims of harassment and discrimination and he provided no corroborating evidence, such as witness statements, to establish that harassment and discrimination actually occurred.¹³ Thus, appellant has not established a compensable employment factor under the Act with respect to these claims.

For the foregoing reasons, appellant has not established any compensable employment factors under the Act and, therefore, has not met his burden of proof in establishing that he sustained a stress-related condition in the performance of duty.¹⁴

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a stress-related condition in the performance of duty. He did not establish any compensable employment factors.

¹⁰ *David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, 42 ECAB 603, 608 (1991).

¹¹ *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

¹² *See Joel Parker, Sr.*, 43 ECAB 220, 225 (1991) (finding that a claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence).

¹³ *See William P. George*, 43 ECAB 1159, 1167 (1992).

¹⁴ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; *see Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 24, 2002 is affirmed.

Issued: February 9, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member