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WILLIAM F. BATES, Appellant)	
)	
and)	Docket No. 05-1978
)	Issued: January 13, 2006
DEPARTMENT OF VETERANS AFFAIRS,)	
VETERANS ADMINISTRATION MEDICAL)	
CENTER, Salisbury, NC, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

On September 27, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' decisions dated March 7 and August 18, 2005, denying his emotional condition claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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

On September 29, 2004 appellant, then a 54-year-old elevator mechanic, filed an occupational disease claim alleging that he developed a stress condition and an upset stomach, nausea, cold sores, elevated blood pressure, headaches and shaking. He alleged that his

condition was caused by receiving conflicting orders,¹ being required to work outside his medical restrictions,² being reprimanded and threatened with removal from his job, having to undergo a fitness-for-duty examination, having the employing establishment change information on his claim form and reacting to a September 23, 2004 incident when he had a verbal altercation with an elevator repair contractor. Appellant stopped work on September 24, 2004.

In a September 14, 2004 memorandum, the employing establishment instructed appellant not to do work which exceeded his medical restrictions. It directed him to abide by his medical restrictions as indicated by his treating physician “in every aspect during your tour of duty.”

In a statement dated November 9, 2004, Bobby Lee, appellant’s supervisor, stated that, on September 23, 2004 and other unspecified occasions, management asked appellant to perform work outside of his medical restrictions. He did not indicate the specific work restrictions which were violated.

Appellant submitted medical evidence in support of his claim. In reports dated March 10 and July 15, 2004, appellant’s treating orthopedic surgeon, Dr. William Furr, indicated that his work restrictions included no lifting over four pounds, no bending, twisting, pushing, pulling, repetitive spinal motions or climbing, no long-standing or walking and frequent rest breaks up to one per hour and elevation of his left leg if he experienced pain or swelling in the leg.

By decision dated March 7, 2005, the Office denied appellant’s claim on the grounds that he failed to establish that his emotional condition was causally related to a compensable factor of his employment.

Appellant requested a review of the written record by the Office Branch of Hearings and Review and submitted additional evidence.

On March 18, 2005 Bill Roten, a union steward, stated that on August 18, 2003 appellant described an incident when Lonnie Barrier, a supervisory engineer, threatened him with removal after appellant became upset over the dismissal of a compensation claim. On March 11, 2004 appellant told Mr. Roten that Mr. Barrier threatened him with a fitness-for-duty examination when he was under light-duty medical restrictions. On or about September 23, 2004, appellant told Mr. Roten that he was upset over a verbal altercation with an elevator contractor. On March 21, 2005 Mr. Lee stated that appellant was having difficulty performing his job due to a back injury sustained at work in 2001 and an April 2003 injury when he fell while repairing an elevator. He stated that appellant became depressed after his claim for the 2003 injury was denied. Mr. Lee stated that appellant was given work assignments which exceeded his medical restrictions but did not specify the particular restrictions which were involved. Mr. Lee stated that, on September 14, 2004, Mr. Barrier instructed him to give a verbal reprimand to appellant.

¹ Appellant did not provide any specific examples of conflicting orders he received.

² Appellant indicated that he was required to climb down into pits and work in cramped spaces, carry heavy repair parts, climb stairs to get to his assigned work areas and was endangered by poor lighting, slippery floors and the possibility of falling debris. He indicated that on April 28, 2003 he injured his back and was placed on light-duty restrictions by his physician.

On September 15, 2004 another employing establishment official asked Mr. Lee to give appellant a written reprimand. Mr. Lee did not indicate the reason for the reprimands.

By decision dated August 18, 2005, the Office denied modification of the March 7, 2005 decision.

LEGAL PRECEDENT

The Federal Employees' Compensation Act³ provides for the payment of compensation benefits for injuries sustained in the performance of duty. To establish a claim that he sustained an emotional condition in the performance of duty, an employee must submit the following: (1) factual evidence identifying compensable 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.⁴

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,⁵ the Board explained that there are distinctions in the type of employment situations giving rise to a compensable emotional condition under the Act. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the coverage under the Act.⁶ When an employee experiences emotional distress in carrying out his employment duties and the medical evidence establishes that the disability resulted from his emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from an emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of his work.⁷ 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.⁸ Generally, actions of the employing establishment in administrative matters, unrelated to the employee's regular or specially assigned work duties, do not fall within coverage of the Act.⁹ However, 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.¹⁰

³ 5 U.S.C. §§ 8101-8193.

⁴ *George C. Clark*, 56 ECAB ____ (Docket No. 04-1573, issued November 30, 2004).

⁵ 28 ECAB 125 (1976).

⁶ *George C. Clark*, *supra* note 4.

⁷ *Lillian Cutler*, *supra* note 5.

⁸ *Id.*

⁹ *Michael L. Malone*, 46 ECAB 957 (1995).

¹⁰ *Charles D. Edwards*, 55 ECAB ____ (Docket No. 02-1956, issued January 15, 2004).

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.¹¹ 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.¹²

ANALYSIS

Appellant alleged that he sustained an emotional reaction to having his supervisors issue conflicting orders, being asked to undergo a fitness-for-duty examination and having the information on his compensation claim form changed. These allegations involve administrative or personnel actions that are not compensable under the Act absent evidence of error or abuse. The Board has held that mere disagreement or dislike of a supervisory or management action will not be compensable without a showing through supporting evidence that the incidents or actions complained of were unreasonable.¹³ In this case, appellant has not provided sufficient evidence that the employing establishment acted unreasonably in handling these administrative matters. He did not provide specific examples of the conflicting orders he received, evidence that the employing establishment acted unreasonably in requiring the fitness-for-duty examination or that it erred or acted abusively in making a change to his compensation claim form. Therefore, these allegations regarding administrative matters do not establish a compensable factor of employment.

Appellant alleged that Mr. Barrier threatened him with removal from his job. However, he provided insufficient details concerning this allegation, such as, the date the threat was made and what was said. Therefore, this allegation is not established as factual and is not a compensable employment factor.

Regarding appellant's emotional reaction to denial of a 2003 compensation claim, the Board notes that the development of any emotional condition related to such matters does not arise in the performance of duty as the processing of compensation claims bears no relation to appellant's day-to-day or specially assigned duties.¹⁴ Therefore, this is not a compensable factor of employment.

¹¹ *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹² *Id.*

¹³ *Janice I. Moore*, 53 ECAB 777 (2002).

¹⁴ *George A. Ross*, 43 ECAB 346 (1991).

Appellant alleged that he had an emotional reaction to receiving reprimands. Mr. Lee stated that in September 2004 management officials instructed him to give appellant a verbal and written reprimand. However, he did not indicate the reason for the reprimands. Disciplinary actions concerning an oral reprimand, discussion or letters of warning for conduct are not compensable unless the employee shows that management acted unreasonably.¹⁵ The evidence of record is not sufficient to establish that management acted unreasonably in issuing reprimands to appellant. Therefore, appellant has not established that the disciplinary actions are compensable employment factors.

Regarding the September 23, 2004 incident in which he had a verbal altercation with an elevator contractor, appellant did not provide sufficient details regarding what precipitated the altercation or what was said. Therefore, this allegation is not a compensable employment factor.

Appellant alleged that he was required to work outside his medical restrictions. He alleged that he was required to climb down into pits and work in cramped spaces, carry heavy repair parts and climb stairs to get to his assigned work areas. The Board has held that being required to work beyond one's physical limitations could constitute a compensable employment factor if such activity was substantiated by the record.¹⁶ Dr. Furr indicated that appellant's work restrictions included no lifting over four pounds, no bending, twisting, pushing, pulling, repetitive spinal motions or climbing, no excessive standing or walking and frequent rest breaks up to one per hour and elevation of his left leg if he experienced pain or swelling. In a September 14, 2004 memorandum, the employing establishment specifically directed appellant not to work outside his medical restrictions. Mr. Lee stated that management asked appellant to perform work outside of his medical restrictions but did not discuss the specific work restrictions which were allegedly violated. Neither appellant nor Mr. Lee provided sufficient evidence regarding the specific tasks that exceeded appellant's medical restrictions. There is insufficient evidence to establish as factual appellant's allegation that the employing establishment required him to perform work that exceeded his medical restrictions. Therefore, this is not a compensable employment factor.

Appellant has failed to establish that his emotional condition was causally related to a compensable factor of employment. Therefore, the Office properly denied his claim.¹⁷

CONCLUSION

The Board finds that appellant failed to establish that he sustained an emotional condition causally related to a compensable factor of employment.

¹⁵ See *Janice I. Moore*, *supra* note 13.

¹⁶ *Diane C. Bernard*, 45 ECAB 223 (1993).

¹⁷ Unless appellant alleges a compensable factor of employment substantiated by the record, it is unnecessary to address the medical evidence. See *Barbara J. Latham*, 53 ECAB 316 (2002); *Garry M. Carlo*, 47 ECAB 299 (1996).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 18 and March 7, 2005 are affirmed.

Issued: January 13, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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