

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLARD MCKENNON and DEPARTEMENT OF DEFENSE,
DEFENSE PERSONNEL SUPPORT CENTER, Philadelphia, Pa.

*Docket No. 96-1724; Submitted on the Record;
Issued June 17, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty.

On September 8, 1995 appellant, then a 46-year-old engineering technician, filed a claim for stress and high blood pressure which he related to tension with other employees and supervision due to closure of the employing establishment. He commented that while he was arguing with his supervisor he felt as if he could physically and mentally hurt someone.

Appellant submitted a September 11, 1995 report from Dr. Edward Tufankjian, an osteopath, who indicated that appellant gave a history of being under pressure and tension at work with coworkers and the supervisor due to closure of positions. He diagnosed hypertension and anxiety reaction. Dr. Tufankjian concluded that appellant's conditions were caused and aggravated by his place of employment.

In a March 11, 1996 decision, the Office of Workers' Compensation Programs rejected appellant's claim on the grounds that he had not established fact of injury.

The Board finds that appellant has not established that he sustained an injury in the performance of duty.

Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. There are distinctions as to the type of situation giving rise to an emotional condition which will be covered under the Federal Employees' Compensation Act. 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 with the coverage of the Act. 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. Disabling conditions resulting from an employee's feeling of job insecurity or the desire for a different job do not constitute personal injury sustained while in the performance of duty within the meaning

of the Act.¹ When the evidence demonstrates feelings of job insecurity and nothing more, coverage will not be afforded because such feelings are not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of the Act.² In these cases, the feelings are considered to be self-generated by the employee as they arise in situations not related to his assigned duties. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse cannot be considered self-generated by the employee but caused by the employing establishment.³

In this case appellant claimed he had stress and high blood pressure from tension with his coworkers and supervisor arising from cutbacks and closing of the employing establishment. The closing of the employing establishment is an administrative action and does not constitute a compensable factor of appellant's employment. Appellant has not cited any incidents or factors which arose from his assigned duties that would be considered compensable factors of his employment. Appellant therefore has not established that he sustained an injury in the performance of duty.

The decision of the Office of Workers' Compensation Programs dated March 11, 1996 is hereby affirmed.

Dated, Washington, D.C.
June 17, 1998

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

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

² *Artice Dotson*, 41 ECAB 754 (1990); *Allen C. Godfrey*, 37 ECAB 334 (1986); *Buck Green*, 37 ECAB 374 (1985); *Peter Sammarco*, 35 ECAB 631 (1984); *Dario G. Gonzalez*, 33 ECAB 119 (1982); *Raymond S. Cordova*, 32 ECAB 1005 (1981); *John Robert Wilson*, 30 ECAB 384 (1979).

³ *Thomas D. McEuen*, 41 ECAB 387 (1990) *reaff'd on recon.*, 42 ECAB 566 (1991).