

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAYMOND E. GOLDMAN and U.S. POSTAL SERVICE,
POST OFFICE, Jackson, Miss.

Docket No. 97-794; Submitted on the Record;
Issued November 3, 1998

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that he developed an emotional condition in the performance of duty, causally related to compensable factors of his federal employment.

On April 29, 1996 appellant, then a 52-year-old postmaster, filed a claim alleging that he developed "stress, depression" causally related to "constant pressure from higher ups to stay within budget hours even after moving into new building with little or no help from district office...." In an addendum appellant restated his allegation of "constant pressure to stay within budget hours after moving to a new building," and alleged that he received "little or no help from district office moving into new building," and that he was under a "threat of removal or replacement if budget not made."

In support of his claim appellant submitted a package containing medical treatment records from a counselor with a Master's degree, a note on a prescription pad from a physician stating that appellant was under the physician's care and would need six weeks of medical leave, a statement from an employing establishment manager of operations stating that appellant received a tremendous amount of assistance but that appellant's performance continued to be unacceptable, a statement from an acting manager of postal operations stating that he expressed concerns about appellant's performance but that no ultimatums were ever given nor were threats made for lack of performance, a statement from a retail specialist about assistance given appellant after he moved into the new facility, a statement from a postmaster called in to assist appellant with deficiencies found after review, postal retail store activation committee meeting minutes and training agenda, copies of resource material available to appellant, paperwork regarding the functioning of appellant's branch of the employing establishment including financial reports, facilities inspections, supply requisitions, customer service checklists, and manpower and training statements, correspondence from appellant's employees and supervisors complaining about his management style and their inability to get along with him, postmaster accountability documents including goals and objectives, appellant's responses including objectives and plans, appellant's unacceptable performance evaluation, other personnel documents and appellant's responses to problems identified and the manager of postal operations' responses to appellant's performance.

By letter dated June 11, 1996, the employing establishment controverted appellant's claim, noting that, contrary to appellant's allegations that he received little or no help, he received extensive and substantial help including the establishment of committees to aid in implementation, the referral of specialists for assistance, meetings, multiple training sessions, audits and inspections, monitoring and feedback, team assistance, additional work hours allotted, and management assistance and feedback. The employing establishment noted that, despite all the assistance given, appellant's work performance continued to be unacceptable and he was placed on a 60-day performance improvement plan. The employing establishment denied that appellant was ever threatened with removal and noted that staying within the budget was part of the job of postmaster. The employing establishment also stated that appellant screamed at employees and created a major part of the tense working environment at that branch office.

By letter dated November 6, 1996, the Office of Workers' Compensation Programs advised appellant that he had not established his *prima facie* case, and it requested that he explain what caused his alleged condition, and why he believed it was employment related, and it requested a medical report which specifically discussed his condition as it related to factors of his employment.

In response appellant stated, "I was under constant pressure from upper management to do more with less, use less hours, stay within budget. I was singled out with more pressure from every top manager. What ever I accomplished, it was not good enough." Appellant also resubmitted counseling records from the Master's level counselor, and another copy of his CA-2 claim form.

By decision dated December 10, 1996, the Office rejected appellant's claim finding that he failed to establish his claim. The Office found that appellant had failed to implicate any compensable factors of employment.

The Board finds that appellant has failed to establish that he developed an emotional condition in the performance of duty, causally related to compensable factors of his federal employment.

To establish appellant's claim that he has sustained an emotional condition in the performance of duty, appellant must submit the following: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to his condition; (2) rationalized 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.¹ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. Such an opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.²

¹ See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

² See *Martha L. Watson*, 46 ECAB 407 (1995); *Donna Faye Cardwell supra* note 1.

Workers' compensation law is not applicable 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 concept of workers' compensation. These injuries occur in the course of employment and have some kind of causal connection with it but are not covered because they do not arise out of the employment. Distinctions exist as to the type of situations 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 to a requirement imposed by the employment, the disability comes within the coverage of the Act. On the other hand, the disability is not compensable where it results from such factors as an employee's fear of a reduction-in-force, his frustration from not being permitted to work in a particular environment or to hold a particular position, or his failure to secure a promotion. 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.³ 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.⁴ 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.⁵

When working conditions are alleged as factors in causing 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.⁶ When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.⁷ When the matter asserted is a compensable factor of employment, and the evidence of record establishes the truth of the matter asserted, then the Office must base its decision on an analysis of the medical evidence of record.⁸

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Artice Dotson*, 41 ECAB 754 (1990); *Buck Green*, 37 ECAB 374 (1985); *Peter Sammarco*, 35 ECAB 631 (1984).

⁵ *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff'd on recon.*, 42 ECAB 566 (1991).

⁶ *See Barbara Bush*, 38 ECAB 710 (1987).

⁷ *Ruthie M. Evans*, 41 ECAB 416 (1990).

⁸ *See Gregory J. Meisenberg*, 44 ECAB 527 (1993).

In the instant case, appellant implicated three factors related to his employment as causing his condition: constant pressure from management to stay within budget hours; no help from the district office; and threat of removal or replacement. However, the Board notes that the evidence of record fails to substantiate any of these allegations. The employing establishment denied putting any undue pressure on appellant regarding budgetary constraints, indicating that staying within the budget was a normal requirement of his position, with which he had been familiar for years. The employing establishment further stated and listed the tremendous amount of assistance it had provided to appellant as he opened the new office, but it noted that the assistance did not seem to help his performance. Finally, the employing establishment denied that appellant was ever threatened with removal or replacement. As appellant has submitted no factual evidence supporting his allegations, and as the employing establishment has denied and disproved that they occurred as alleged, the Board must conclude that these implicated factors were merely appellant's unsubstantiated perceptions, and hence are not compensable factors of employment. As no compensable factors of employment have been alleged as causing appellant's condition, the medical evidence of record need not now be considered.

Accordingly, the decision of the Office of Workers' Compensation Programs dated December 10, 1996 is hereby affirmed.

Dated, Washington, D.C.
November 3, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member