

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBERT E. WHITNEY and DEPARTMENT OF THE ARMY,  
INTELLIGENCE CENTER, Fort Huachuca, Ariz.

*Docket No. 97-1599; Submitted on the Record;  
Issued February 25, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant established that his emotional condition was sustained in the performance of duty.

The Board has carefully reviewed the record and finds that appellant has failed to meet his burden of proof in establishing that his diagnosed stress, anxiety, and depression were caused by employment factors.

Under the Federal Employees' Compensation Act,<sup>1</sup> 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 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.<sup>2</sup>

Workers' compensation law does not cover each and every injury or illness that is somehow related to employment.<sup>3</sup> There are distinctions regarding the type of work situation giving rise to an emotional condition that will be covered under the Act.

For example, disability resulting from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employing establishment

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<sup>1</sup> 5 U.S.C. §§ 8101-8193 (1974).

<sup>2</sup> *Vaile F. Walders*, 46 ECAB 822, 825 (1995).

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125, 129 (1976).

is covered.<sup>4</sup> However, an employee's emotional reaction to an administrative or personnel matter is generally not covered,<sup>5</sup> and disabling conditions caused by an employee's fear of termination or frustration from lack of promotion are not compensable. In such cases, the employee's feelings are self-generated in that they are not related to assigned duties.<sup>6</sup>

Nonetheless, if the evidence demonstrates that the employing establishment erred or acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.<sup>7</sup> However, a claimant must support his allegations with probative and reliable evidence; perceptions alone are insufficient to establish an employment-related emotional condition.<sup>8</sup>

The initial question is whether appellant has alleged compensable employment factors as contributing to his condition.<sup>9</sup> Thus, part of appellant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents which appellant believes caused or adversely affected the condition for which he claims compensation.<sup>10</sup> If appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.<sup>11</sup>

In this case, appellant, then a 60-year-old supervisory security specialist in personnel, filed a notice of occupational disease on September 26, 1996, claiming that his stress, anxiety, and depression were caused by a 1994 reduction-in-force (RIF) which eliminated his position as an intelligence specialist, Grade 12. Appellant explained that he was demoted to a Grade 11 supervisory position, which was unnecessarily stressful because his supervisor was "an incessant micro-manager" who constantly meddled, routinely changed appellant's decisions, and kept the branch "in a state of turmoil."

Appellant faced a second pending RIF in 1996 and attributed his developing hypertension and peptic ulcers, as well as an unnecessary gall bladder operation on November 17, 1995, to the ongoing RIF proceedings, which began in 1991.

In support of his claim, appellant submitted medical documentation on his stomach problems and reports from Drs. Blair T. Goodsell and James P. Reed, both osteopathic

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<sup>4</sup> *Jose L. Gonzalez-Garced*, 46 ECAB 559, 563 (1995).

<sup>5</sup> *Sharon J. McIntosh*, 47 ECAB 754 (1996).

<sup>6</sup> *Barbara E. Hamm*, 45 ECAB 843, 850 (1994).

<sup>7</sup> *Margreate Lublin*, 44 ECAB 945, 956 (1993).

<sup>8</sup> *Ruthie M. Evans*, 41 ECAB 416, 425 (1990).

<sup>9</sup> *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

<sup>10</sup> *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

<sup>11</sup> *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

practitioners. On December 19, 1996 the Office of Workers' Compensation Programs denied appellant's claim on the grounds that fear of a RIF is not a compensable work factor.

The Board finds that, while appellant has sustained an emotional condition related to his employment, the condition is not compensable under the Act.<sup>12</sup> Appellant's reaction to the uncertainty of future employment is self-generated -- it is not part of his regular or specially assigned work duties or a requirement imposed by his employment. Thus, the stresses and strains imposed on all affected employees by RIF proceedings constitute a situation in which an employee's resultant illness or injury has some connection with the employment but is not covered by the Act.

There is an employer-employee relationship in a RIF, but the actual process of a RIF is administrative, a function of management. Absent evidence that the employer erred or acted unreasonably in carrying out the RIF, and there is no such evidence in this record, appellant's fear of the personal consequences of a RIF cannot be a compensable work factor.<sup>13</sup>

Further, appellant's opinion of the management style of his new supervisor and his conclusion that required retraining was unnecessarily stressful are also not covered under the Act. While caused by the employment environment, these personal reactions are not compensable because they are not regular or specially assigned work duties.<sup>14</sup>

Inasmuch as appellant has failed to meet his burden of proof in providing factual evidence supporting his allegation that working under the threatening conditions of perpetual RIFs caused his emotional and physical problems, or identifying specific employment factors or incidents alleged to have caused or contributed to his mental condition, the Board finds that the Office properly denied his claim.<sup>15</sup>

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<sup>12</sup> See *Merriett J. Kauffman*, 45 ECAB 696, 703 (1994) (finding that appellant failed to allege or establish that specific work tasks or requirements assigned to him gave rise to his emotional condition).

<sup>13</sup> See *Janice Balan*, 37 ECAB 485, 493 (1986) (citing *Lillian Cutler* and finding that fear of a reduction-in-force and possible reassignment is not a compensable work factor); see also *Donald W. Bottles*, 40 ECAB 349, 353 (1988) (finding that an employee's frustration and depression resulting from an involuntary transfer are not compensable).

<sup>14</sup> See *Alberta Kinloch-Wright*, 48 ECAB \_\_\_\_ (Docket No. 95-1254, issued April 23, 1997) (finding that appellant's own perceptions of harassment and hostility from her supervisor were neither specific nor independently corroborated and were therefore not compensable under the Act).

<sup>15</sup> See *Raul Campbell*, 45 ECAB 869, 877 (1994) (finding that appellant failed to substantiate compensable factors of employment or allegations of error or abuse on the part of the employing establishment).

The December 19, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
February 25, 1999

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member