

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES F. WOODWARD and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, Ohio

*Docket No. 97-1639; Submitted on the Record;
Issued February 23, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof to establish that he sustained an emotional condition in the performance of duty on August 29, 1996.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an emotional condition in the performance of duty on August 29, 1996.

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

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).

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.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

In the present case, appellant alleged that he sustained a traumatic emotional condition on August 29, 1996 in that he sustained an anxiety attack when he was ordered by his supervisor to “pivot” on that date.⁷ Appellant also indicated that he was wrongly denied annual leave on August 29, 1996. By decision dated January 17, 1997, the Office denied appellant’s emotional condition claim on the grounds that he did not establish any compensable employment factors and, by decision dated March 19, 1997, the Office denied modification of its January 17, 1997 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.

Regarding appellant’s allegations that the employing establishment wrongly denied leave and unreasonably ordered him to pivot at work on August 29, 1996, 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.⁸ Although the handling of leave requests and the management of work assignments are generally related to the employment, they are administrative functions of the employer, and not duties of the employee.⁹ 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.¹⁰ Appellant did not submit evidence showing that the employing establishment committed error or abuse with respect to the denial of leave or the order to pivot. The record contains evidence which indicates that pivoting is an established practice at the employing establishment and there is no evidence that it was improperly implemented on August 29, 1996. Thus, appellant has not established a compensable employment factor under the Act in this respect.

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

⁶ *Id.*

⁷ The practice of pivoting involves assigning a given carrier to another mail delivery route after he or she has already finished his or her assigned route within the prescribed time allotted for that route.

⁸ See *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

⁹ *Id.*

¹⁰ See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

Appellant suggested that engaging in the act of pivoting caused him stress. The Board has held that emotional reactions to situations in which an employee is trying to meet his or her position requirements are compensable.¹¹ However, appellant did not actually engage in pivoting on August 29, 1996; he took emergency sick leave and left the employing establishment shortly after he was directed to pivot by his supervisor. Appellant alleged that he sustained a traumatic emotional condition on August 29, 1996 rather than over a period of more than one day.¹² Therefore, appellant's stress was related to the order to pivot rather than engaging in pivoting hand, for the reasons noted above, the order to pivot itself is not an employment factor.

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 an emotional condition in the performance of duty.¹³

The decisions of the Office of Workers' Compensation Programs dated March 19 and January 17, 1997 are affirmed.

Dated, Washington, D.C.
February 23, 1999

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

¹¹ See *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

¹² Appellant also suggested that he sustained an emotional condition due to various conditions that existed prior to August 29, 1996. He did not, however, articulate the specific nature of these conditions or file an occupational disease claim, *i.e.*, a claim for a condition caused by employment factors which occurred over the course of more than one day or shift.

¹³ 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).