

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JAMES T. MILLER and U.S. POSTAL SERVICE,  
MAIN POST OFFICE, Butte, Mont.

*Docket No. 97-1098; Submitted on the Record;  
Issued January 25, 1999*

---

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
MICHAEL E. GROOM

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

The Board has reviewed the case record and finds that appellant has failed to meet his burden of proof in establishing that his depression was 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 which 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 is covered.<sup>4</sup> However, an employee's emotional reaction to an administrative or personnel

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

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

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

<sup>4</sup> *Jose L. Gonzalez-Garced*, 46 ECAB 559, 564 (1995).

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; personal 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 57-year-old distribution clerk, filed a notice of occupational disease on February 3, 1996, claiming that his depression resulted from unnecessary pressures at work due to management changes in job assignments and shift schedules. Appellant had stopped work on January 23, 1996.

In response to a request from the Office of Workers' Compensation Programs for additional information, appellant explained that a loss of mail volume resulted in his starting time being changed from 3:00 p.m. to 6:00 p.m. and that employees junior to him were scheduled in the preferred earlier time. Appellant added that he was told he might be required to work overtime at the end of his shift at 2:30 a.m., that during a stand-up meeting, the entire work force was criticized for failing to cull the mail properly and that appellant's offer to work overtime at the start of his shift was rejected without any explanation.

Appellant filed a grievance against management's changes but indicated that the issue was put on hold while adjustments were made to starting times. He added that his stress had worsened due to the "extremely low morale" among employees and the "inhumane managerial practices" of the recently-appointed postmaster.

---

<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).

On July 30, 1996 the Office denied appellant's claim on the grounds that he failed to establish that his emotional condition occurred in the performance of duty.

Appellant requested reconsideration, which was denied on December 17, 1996 on the grounds that the evidence submitted in support of his request was insufficient to warrant review of the prior decision. The Office noted that documents pertaining to a grievance and an Equal Employment Opportunity (EEO) complaint did not contain a formal decision showing that the employing establishment had erred or acted abusively.

The Board finds that the work factors identified by appellant are administrative in nature and thus not compensable under the Act. Specifically, a change in an employee's schedule to accommodate the work flow is a managerial action. Here, the employing establishment explained that the starting times of six of appellant's co-workers were also changed because of the drop in the volume of mail, that employees with less experience were starting at 3:00 p.m. because the less skilled work was available then, and that appellant could have bid for a job with an earlier time had he wished. Appellant has presented no evidence beyond his allegations that the employing establishment singled him out or acted abusively in changing his starting time or assigning him duties.

Involuntary excessive overtime may be a compensable work factor. However, here the employing establishment pointed out that appellant kept his name on the desired-overtime list, that the union contract required people on the list to work overtime when necessary, and that office policy dictated that any overtime would be worked at the end of a shift, not at the beginning. Appellant's frustration at not being permitted to work overtime when he wished is a self-generated feeling that is not compensable under the Act.<sup>12</sup>

Similarly, appellant's unhappiness with the new postmaster's managerial style, his reaction to managerial criticism and his perception of low morale among his co-workers are his personal feelings that are generally not compensable work factors unless the employing establishment has erred or acted abusively.<sup>13</sup> There is no evidence in this record of such error or abuse. Therefore, the Board finds that appellant has failed to establish any compensable work factors.<sup>14</sup>

The December 17 and July 30, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

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

---

<sup>12</sup> See *Joe E. Hendricks*, 43 ECAB 850, 857 (1992) (finding that appellant's allegations regarding the causes of his stress did not represent compensable work factors).

<sup>13</sup> See *Mary A. Sisneros*, 46 ECAB 155, 162 (1994) (finding that appellant's perceptions of an unsympathetic atmosphere in the workplace were largely self-generated and thus not covered under the Act).

<sup>14</sup> See *Raul Campbell*, 45 ECAB 869, 877 (1994) (finding that appellant failed to substantiate any compensable factors of employment or allegations of error or abuse on the part of the employing establishment).

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Michael E. Groom  
Alternate Member