

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GEORGE E. BLAKE and U.S. POSTAL SERVICE,
POST OFFICE, Springfield, Mass.

*Docket No. 97-1181; Submitted on the Record;
Issued March 8, 1999*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained an emotional condition due to factors of his federal employment.

On June 26, 1996 appellant, then a 56-year-old mail processor, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he experienced hostility, harassment and discipline from management as a result of helping a co-worker and that he developed stress as a result.

By letter dated August 7, 1996, the Office of Workers' Compensation Programs advised appellant that his claim was deficient and to submit factual and medical evidence in order to determine whether he was eligible for benefits under the Federal Employees' Compensation Act.¹ Appellant was afforded the opportunity to provide supportive evidence to support his contention that he was actually exposed to the activities or employment factors to which he attributed the claimed medical condition.

Appellant provided two statements, one dated June 26, 1996 and the other dated August 14, 1996, which refer generally to harassment and retaliation. Copies of grievance forms, a copy of a form related to equal employment opportunity counseling, a notice of 7-day suspension and medical certification forms were also submitted.

By decision dated November 1, 1996, the Office denied appellant's claim because fact of injury was not established. In the accompanying memorandum, the Office found that, although appellant established that he has an anxiety condition, he did not establish whether the alleged employment factors factually occurred. The Office found that appellant's statements pertaining to harassment and retaliation were not specific as to time, place and circumstance. The Office

¹ 5 U.S.C. §§ 8101-8193.

concluded found that there was insufficient evidence regarding whether the alleged events occurred at the time, place and in the manner alleged.

By letter dated November 26, 1996, appellant requested reconsideration. A November 15, 1996 medical report from Dr. Peter G. Doane, a Board-certified family practitioner, was submitted which diagnosed severe stress resulting in anxiety and hypertension which “is clearly associated with work-related issues.” Dr. Doane further stated that appellant “tells me he started noting these difficulties in mid June when he was the subject of three pre-disciplinary investigations, issued two letters of warning and a suspension for attempting to assist a co-worker.”

By decision dated January 27, 1997, the Office reviewed appellant’s claim on the merits and concluded that the evidence submitted was insufficient to warrant modification of its prior decision.

An employee seeking benefits under the Act² has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition, for which compensation is claimed are causally related to the employment injury.³

To establish appellant’s occupational disease claim that he has sustained an emotional condition in the performance of duty appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence establishing employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.⁴

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 illness has some connection with the employment but nevertheless does not come within the concept of workers’ compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee’s fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.⁵

² *Id.*

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

⁵ *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

In this case, appellant attributed his emotional condition to harassment and retaliation from the employing establishment. Appellant, however, has not submitted sufficient evidence to establish that the allegations made occurred in order to sustain his burden that implicated acts of harassment took place.⁶ The evidence submitted does not contain specifics of harassment, as alleged or show error in any administrative actions taken. Appellant's evidence does not contain sufficient specific factual descriptions of alleged harassing activities. While the record shows grievances were made, the evidence does not establish error or abuse at the employing establishment.

As appellant has failed to establish that his emotional condition is due to a compensable factor of his federal employment, the Office properly denied his claim.

The decision of the Office of Workers' Compensation Programs dated January 27, 1997 is hereby affirmed.

Dated, Washington, D.C.
March 8, 1999

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁶ See *Sandra Shortridge*, 46 ECAB 356 (1994).