

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MANZER BELANGER JR. and U.S. POSTAL SERVICE,  
POST OFFICE, Fort Kent, ME

*Docket No. 99-2262; Submitted on the Record;  
Issued December 6, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
PRISCILLA ANNE SCHWAB

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

On September 3, 1998 appellant, a 50-year-old postmaster, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that he suffered an acute stress reaction to an August 21, 1998 telephone conversation with his manager, Steven J. Pelletier, who purportedly spoke in a "threatening tone" and used abusive language.

In an undated statement, Mr. Pelletier explained that he telephoned appellant on August 21, 1998 to advise him that his performance was unsatisfactory as it related to an EXFC audit. He further stated that he told appellant that he "could not do [appellant's] job for him" and that he could not continue sending other individuals to help appellant perform his duties. Mr. Pelletier described his tone of voice as "elevated but not abusive" and indicated that he made it very clear to appellant that he would no longer accept poor performance from him.

In a supplemental statement dated October 14, 1998, appellant provided additional details regarding his August 21, 1998 telephone conversation with Mr. Pelletier. Appellant stated, among other things, that Mr. Pelletier called him "stupid" and accused him of not caring about his job. Mr. Pelletier also purportedly stated that he would take corrective action and suggested that appellant seek employment elsewhere.

Appellant identified another incident on August 24, 1998 that allegedly caused or contributed to his claimed emotional condition. On that morning Mr. Pelletier telephoned appellant regarding his participation in an upcoming labor-management meeting scheduled for August 26, 1998. Appellant stated that he advised Mr. Pelletier that he was short-handed and could not attend, but that Mr. Pelletier insisted the meeting go on as scheduled. Appellant also commented that while the meeting pertained to his office and employees, he had no input. Additionally, appellant stated that the meeting's agenda was very vague and, consequently, he

felt threatened. Appellant was hospitalized the evening prior to the scheduled labor-management meeting and, therefore, did not attend the August 26, 1998 meeting.

The Office of Workers' Compensation Programs issued a decision on March 17, 1999 denying appellant's claim for compensation. The Office found that appellant failed to establish that his claimed emotional condition arose in the performance of duty.

The Board finds that appellant failed to establish that he sustained an emotional condition while in the performance of duty.

In order to establish that he sustained an emotional condition causally related to factors of his federal employment, appellant must submit: (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 condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that his emotional condition or psychiatric disorder is causally related to the identified compensable employment factors.<sup>1</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to one's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless, does not come within the purview 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 deemed 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 hold a particular position.<sup>2</sup> Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting her allegations with probative and reliable evidence.<sup>3</sup>

In this case, appellant alleged that Mr. Pelletier was verbally abusive and threatening during their August 21, 1998 telephone conversation. While the Board has recognized the compensability of verbal altercations or abuse in certain circumstances, this does not imply that every statement uttered in the workplace will give rise to coverage under the Federal Employees' Compensation Act.<sup>4</sup> When sufficiently detailed and supported by the record, verbal altercations may constitute a factor of employment.<sup>5</sup> The only arguably abusive language attributed to Mr. Pelletier was his purported reference to appellant as "stupid." And the only alleged threat was not of a physical nature, but appears to have been directed to appellant's continued livelihood.

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<sup>1</sup> See *Kathleen D. Walker*, 42 ECAB 603 (1991).

<sup>2</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>3</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

<sup>4</sup> *Harriet J. Landry*, 47 ECAB 543, 546 (1996).

<sup>5</sup> *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

Mr. Pelletier apparently was not offered the opportunity to respond to the more specific allegations set forth in appellant's October 14, 1998 supplemental statement. However, while previously acknowledging that his tone of voice on August 21, 1998 was "elevated," Mr. Pelletier specifically denied being "abusive." Assuming Mr. Pelletier did, in fact, refer to appellant as stupid, this utterance while perhaps personally offensive, does not rise to the level of verbal abuse.

The subject matter of the August 21, 1998 conversation and Mr. Pelletier's alleged threat to take corrective action regarding appellant's poor performance is clearly administrative in nature. As a general rule, a claimant's reaction to administrative or personnel matters falls outside the scope of the Act.<sup>6</sup> However, to the extent that the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.<sup>7</sup> The record does not establish that Mr. Pelletier either erred or acted abusively in counseling appellant regarding his poor job performance. The mere fact that appellant disagreed with Mr. Pelletier's assessment of his performance and felt threatened by the tone of his delivery does not bring the August 21, 1998 incident into the realm of compensable employment factors.<sup>8</sup>

Appellant's emotional reaction to his required participation in the August 26, 1998 labor-management meeting can best be described as apprehension regarding his continued employment. He appears to have been concerned about possible criticism from the union regarding whether he would have Mr. Pelletier's support given their recent conversation on August 21, 1998. Appellant specifically indicated in his supplemental statement that due to the vagueness of the agenda he was "apprehensive about what was waiting for [him], at a meeting about [his] post office." He also noted that in the past Mr. Pelletier had not been supportive of his postmasters. While appellant may have developed stress due to insecurity about maintaining his position, the Board has previously held that a claimant's job insecurity is not a compensable factor of employment.<sup>9</sup>

Lastly, appellant alleged that he was harassed and discriminated against and that Mr. Pelletier placed unrealistic demands upon him. Not only are these allegations vague, but appellant has also failed to provide any substantiating evidence. Consequently, appellant has failed to implicate any compensable employment factors as a cause for his claimed emotional condition. As such, the Office properly denied his claim without addressing the medical evidence of record.<sup>10</sup>

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<sup>6</sup> *Dinna M. Ramirez*, 48 ECAB 308, 313 (1997).

<sup>7</sup> *Id.*

<sup>8</sup> *Tanaya A. Gaines*, 44 ECAB 923, 935 (1993).

<sup>9</sup> *See Artice Dotson*, 42 ECAB 754, 758 (1990); *Allen C. Godfrey*, 37 ECAB 334, 337-38 (1986).

<sup>10</sup> Unless a claimant establishes a compensable employment factor, it is unnecessary to address the medical evidence of record. *Gary M. Carlo*, 47 ECAB 299, 305 (1996).

The March 17, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.<sup>11</sup>

Dated, Washington, DC  
December 6, 2000

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>11</sup> While the record includes evidence received by the Office subsequent to the issuance of its March 17, 1999 decision, the Board's review is limited to the evidence of record that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).