

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARMELO MALDONADO and U.S. POSTAL SERVICE,
POST OFFICE, San Juan, PR

*Docket No. 98-1633; Submitted on the Record;
Issued June 7, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained an emotional condition in the performance of duty on September 16, 1997.

On October 6, 1997 appellant, then a 54-year-old letter carrier, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he sustained a "nervous breakdown." On his CA-2 form appellant alleged that he first became aware of his condition on September 16, 1997 and that it was caused or related to his employment. On the reverse of the CA-2 form appellant indicated that he notified his supervisor of his condition on February 3, 1997 and that he received medical attention on February 1, 1997 from Dr. Sandra Pezzotti Alvarez, a general practitioner at Hospital San Pablo in Bayamon, Puerto Rico. In explaining causal relationship between his claimed condition and his alleged factors of employment on his CA-2 form, appellant stated:

"After waiting for my case [with] Labor Compensation to be completed and I noticed that I had no hours left and did n[o]t receive any money, it caused me a nervous breakdown that ma[d]e [sic] me so nervous that I went to get help [from a] psychiatrist and was sent immediately to an [i]nstitution for nine days and now I have to be on a rehabilitation program."

He attached a letter dated September 30, 1997 in which he also stated:

"On February 1, 1997 I had a job injury and was given treatment. Then I went back to work on March 17, 1997 until May 9, 1997. My condition got worse. I was given therapy until July 12, 1997. I had to have surgery on July 14, 1997. Since that date I have n[ot] been able to go to work. The doctor gave me until December 1997 for recovery.

“Meanwhile, I was taking all my pertaining documents concerning my injury to U.S. Dep[artmen]t of Labor and the office here in P[uerto] R[ico] did n[o]t submit them on time and caused me to use all my sick and annual leave, which has ended and being on leave without pay has cause[d] me a [d]epression [c]risis and [I] had to get help from a [p]sychiatrist. Was diagnos[ed] a [d]epression [t]rauma.

“I was hospitalized for nine days from September 17 to 25, 1997. Now I am on treatment for [a]mbulatory [t]herapy.”

In support of his claim, appellant submitted a hospital certification from First Hospital Panamericano in Cidra, Puerto Rico. On this certificate Dr. C. Farragierri of the APM unit diagnosed “[d]epression [m]ajor.”

By letter dated November 3, 1997, the Office of Workers’ Compensation Programs advised appellant and the employing establishment that under the Federal Employees’ Compensation Act,¹ additional evidence supporting his claim for major depression was necessary as he had not proven that his reaction was due to factors of his employment, but rather was self-generated due to his financial situation and was not compensable under the Act.

In response to the Office’s request, appellant submitted an attending physician’s report (Form CA-20) dated November 4, 1997, received by the Office on November 20, 1997, from Dr. Fernando Entenza, a psychiatrist, specializing in direct patient care, who gave his diagnosis as “major depression, single episode, severe with psychotic features, post-traumatic stress disorder, chronic.” Dr. Entenza check marked “yes” indicating that he believed appellant’s condition was due to his employment activities and “yes” indicating that appellant’s present condition was due to the injury which compensation was claimed. Dr. Entenza stated that “[appellant] [b]egan developing some depression after a herniated disc injury in February 1997. Decompensated after a heated argument with an administrator in April 1997.” After examination, Dr. Entenza noted paranoid, auditory, suicidal and violent ideations with intrusive memories of combat and suggested that appellant seek treatment at a psychiatric hospital. He noted that appellant was admitted into a partial psychiatric hospital for treatment from September 26 to October 22, 1997.

By decision dated April 6, 1998, the Office denied appellant’s claim on the grounds that appellant had not established that he sustained an emotional condition in the performance of duty.

The Board finds that appellant has not established that he sustained an emotional condition in the performance of duty.

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

¹ 5 U.S.C. §§ 8101-8193.

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 Act. 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

In the instant case, appellant has alleged that he sustained an emotional condition causally related to his federal employment. Appellant explained that he sustained a nervous breakdown when he realized that he had no leave hours left and that he would not be receiving any earnings while his compensation claim was being processed.

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.³ 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.⁴

Appellant alleged that he developed stress in connection with the handling of his compensation claim, but the development of any condition related to this matter would not arise in the performance of duty as the processing of compensation claims bears no relation to appellant's regular or specially assigned duties.⁵

As appellant has not established a compensable factor of employment to have caused or contributed to his claimed condition, it is not necessary to determine if the medical evidence establishes that the diagnosed condition is causally related to the employment factors.

² See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

³ See *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992); *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁴ *Id.*

⁵ See *George A. Ross*, 43 ECAB 346, 353 (1991); *Virgil M. Hilton*, 37 ECAB 806, 811 (1986).

The decision of the Office of Workers' Compensation Programs dated April 6, 1998 is hereby affirmed.

Dated, Washington, D.C.
June 7, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member