

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RICHARD FARRELL and U.S. POSTAL SERVICE,  
POST OFFICE, Miami, FL

*Docket No. 00-381; Submitted on the Record;  
Issued November 28, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
VALERIE D. EVANS-HARRELL

The issue is whether appellant met his burden of proof to establish that he sustained a stress-related condition in the performance of duty on June 11, 1999.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a stress-related condition in the performance of duty on June 11, 1999.

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.<sup>1</sup> 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.<sup>2</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 employment factors.<sup>3</sup> This burden includes the submission of a detailed

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

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

<sup>3</sup> *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.<sup>4</sup>

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 of Workers' Compensation Programs, 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.<sup>5</sup> 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.<sup>6</sup>

On June 12, 1999 appellant, then a 57-year-old letter carrier, filed a traumatic injury claim alleging that he sustained a stress-related condition at work on June 11, 1999.<sup>7</sup> By decision dated August 9, 1999, the Office denied appellant's emotional condition claim on the grounds that he did not establish any compensable employment factors. The Board must, thus, initially review whether appellant has established any compensable employment factors under the terms of the Act.

In the present case, appellant alleged that he sustained a stress-related condition on June 11, 1999 due to being followed by supervisors.<sup>8</sup> On July 1, 1999 the Office requested that appellant provide additional evidence in support of his claim, including additional factual evidence regarding his assertion that he was followed by supervisors on June 11, 1999, but appellant did not respond to this request within the allotted time. The record contains a June 18, 1999 document in which Isabel Fernandez and Ilia Gonzalez, both supervisors, indicated that that they performed an evaluation of appellant's route on June 11, 1999.<sup>9</sup>

The Board finds that appellant did not provide an adequately detailed description of the alleged actions on June 11, 1999 to establish the existence of a compensable employment factor. He merely indicated that he sustained a stress-related condition due to being "followed by supervisors." As noted above, appellant did not respond within the allotted time to the Office's request to provide additional clarification of this matter. Therefore, appellant did not meet his

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<sup>4</sup> *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

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

<sup>6</sup> *Id.*

<sup>7</sup> Appellant alleged that he sustained stress, nausea and cramps due to "heat of day stress while being followed by supervisors."

<sup>8</sup> The record contains medical reports dated June 12 and 14, 1999 in which appellant reported that he developed stress on June 11, 1999 due to being "followed by supervisors."

<sup>9</sup> The supervisors noted that they advised appellant that he had to take his lunch break after his last delivery rather than after he arrived at his "designated location."

burden to submit a detailed description of the employment factors or conditions, which he believes, caused or adversely affected the condition or conditions for which compensation is claimed.<sup>10</sup> Moreover, appellant did not submit sufficient evidence to establish that the employing establishment committed error or abuse with respect to the administrative action of performing an evaluation of his route on June 11, 1999.<sup>11</sup>

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.<sup>12</sup>

The decision of the Office of Workers' Compensation Programs dated August 9, 1999 is affirmed.

Dated, Washington, DC  
November 28, 2000

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

Valerie D. Evans-Harrell  
Alternate Member

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<sup>10</sup> See *supra* note 4 and accompanying text. Appellant submitted additional evidence after the Office's August 9, 1999 decision, but the Board cannot consider such evidence for the first time on appeal; see 20 C.F.R. § 501.2(c).

<sup>11</sup> Appellant's allegations that Ms. Fernandez and Ms. Gonzalez improperly evaluated him and unreasonably monitored his activities by following him at work on June 11, 1999, would 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. Although the handling of evaluations and the monitoring of activities at work are generally related to the employment, they are administrative functions of the employer, and not duties of the employee. 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. See *Janet I. Jones*, 47 ECAB 345, 347 (1996), *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993). In determining whether the employing establishment erred or acted abusively, the Board has examined whether it acted reasonably. See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

<sup>12</sup> 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).