

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID HONIKER and U.S. POSTAL SERVICE,
POST OFFICE, St. Petersburg, FL

*Docket No. 00-124; Submitted on the Record;
Issued October 20, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof to establish that he sustained an emotional condition in the performance of duty causally related to factors of his federal employment.

On April 1, 1998 appellant, then a 48-year-old carrier/technician, filed a notice of traumatic injury alleging that, on March 28, 1998, a supervisor-in-training did not accept his duty restrictions and harassed him, causing him to suffer stress.¹ In support of his claim, appellant submitted personal statements detailing his allegations.² He also submitted a March 30, 1998 report from Kathryn LaPointe, Ph.D., LMHC, verifying appellant's treatment for panic disorder resulting from "acute and cumulative stress from his employment." She stated that appellant was extremely stressed. Dr. LaPointe also submitted a duty status report (CA-17), wherein she stated that appellant was suffering from panic disorder due to his work-related injury and was unable to return to work at the present time. In an attending physician's report dated April 22, 1998, Dr. LaPointe stated that appellant was undergoing weekly psychotherapy relating to his acute and cumulative stress disorder which was related to his employment activity.

In a medical report dated April 15, 1998, Gerard E. Boutin, Ph.D. stated that appellant was under his care and was being treated for a major depressive disorder and acute stress disorder that within reasonable psychological certainty is directly related to the stress of his work

¹ Appellant was attacked by a dog while delivering mail on December 16, 1996. The Office of Workers' Compensation Programs accepted that appellant suffered from a lumbosacral sprain/strain from this incident and appellant was placed on restrictions.

² Appellant alleged that, on March 28, 1998, the supervisor-in-training repeatedly questioned him as to why it was going to take him so long to do his route and that when he got the union steward to explain his restrictions to her, she would not listen to him either. He also set forth specific examples of previous occasions where he was asked to exceed his medical restrictions by another supervisor.

environment at the employing establishment and stated that appellant was to be off work from March 30 through May 6, 1998.

Initially, the employing establishment controverted appellant's claim and submitted a statement from the supervisor-in-training.

By letter dated April 10, 1998, the Office requested further information from appellant, including medical documentation to support his claim. No reply was received.

In a decision dated September 22, 1998, the Office denied appellant's claim, finding that the evidence failed to establish that the injury occurred in the performance of duty. Specifically, the Office found that appellant had not submitted any evidence in support of his allegations that he worked in an abusive and/or hostile environment. The Office further noted that no medical report was submitted identifying any specific incident or factor of employment believed to have caused appellant's alleged mental condition.

By letter dated November 9, 1998, appellant requested an oral hearing. At the hearing of March 26, 1999, he testified that he worked for the employing establishment since 1969, that as of the dog attack incident he has been unable to walk as great a distance and was accordingly placed on restrictions, that on March 28, 1998 he was harassed by a supervisor-in-training with regard to his restrictions and that he was previously harassed about his restrictions by another supervisor. At the hearing, appellant submitted statements from coworkers in support of his allegation that management harassed him with regard to his work restrictions and a settlement agreement reached with regard to his Equal Employment Opportunity complaint.

After the hearing, appellant submitted a report dated March 31, 1999 by Dr. LaPointe, wherein she stated that appellant had been seen for stress-related symptoms on March 30, 1998, that he reported his work environment and difficulties he was having with his supervisor and supervisor-in-training and that it appeared that the acute anxiety he was experiencing was the direct result of the negative and hostile interactions with his supervisors and that these emotional injuries were directly related to these interactions on the job.

In a decision dated June 17, 1999, the hearing representative found that the evidence supported the fact that appellant had been harassed and such was considered a compensable factor of employment. However, the hearing representative found that the medical evidence was insufficient in that it failed to meet appellant's burden of proof that his condition was caused by the accepted factors of employment.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained an emotional condition in the performance of duty.

To establish an emotional condition sustained 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 identifying 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.³

³ *Martha L. Street*, 48 ECAB 641, 644-45 (1997).

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.⁴

Workers' compensation law is not applicable 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 coverage 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 to hold a particular position.⁵ 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 his allegations with probative and reliable evidence.⁶

While appellant established compensable employment factors, he did not meet his burden of proof to establish that his emotional condition was work related because he did not submit rationalized medical evidence explaining how these factors of employment caused or aggravated his emotional condition. Although appellant submitted doctor's reports indicating that he was treated for panic disorder resulting from stress from his employment and Dr. LaPointe only stated generally that this stress was caused by "work difficulties" with his supervisor and supervisor-in-training. He failed to specifically address the compensable factor in this case as a cause of appellant's stress.⁷

Inasmuch as the medical evidence of record is devoid of any rationalized medical evidence establishing that appellant developed an emotional condition due to accepted factors of his employment, he has failed to meet his burden of proof to establish his claim.

⁴ *Joe L. Wilkerson*, 47 ECAB 604, 605 (1996); *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1989).

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

⁶ *Robert W. Johns*, 51 ECAB ____ (Docket No. 98-74, issued October 15, 1999).

⁷ *Victor J. Woodhams*, 41 ECAB 345 (1989).

The decision of the Office of Workers' Compensation Programs dated June 17, 1999 is hereby affirmed.

Dated, Washington, DC
October 20, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member