

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM K. MOY and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 99-2219; Submitted on the Record;
Issued October 19, 2000*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issues are: (1) whether appellant has established that he sustained an emotional condition causally related to compensable factors of his federal employment; and (2) whether the Office of Workers' Compensation Programs properly determined that appellant had abandoned his request for a hearing.

Appellant filed an occupational disease claim on May 28, 1997 alleging that he sustained an emotional condition as a result of altering his work assignment and the demands that his assignments be completed in an unreasonable time. By decision dated February 9, 1998, the Office found that the medical evidence was insufficient to establish appellant's claim. In a decision dated November 30, 1998, the Office determined that appellant had abandoned his request for a hearing.

The Board has reviewed the record and finds that appellant has not established an emotional condition causally related to compensable work factors.

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

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

² *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

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 coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or to secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.³

In the present case, appellant did implicate his job as contributing to an emotional condition. He asserted in a narrative statement that he did not have sufficient time to complete his regular assigned duties. The Board has held that overwork may be a compensable factor of employment.⁴ The February 8, 1998 Office decision noted that the employing establishment had not offered any comments, and the Office indicated that it accepted the allegations as a compensable work factor.

With respect to the medical evidence, there is no opinion on causal relationship between a diagnosed emotional condition and employment factors. In a report dated April 18, 1997, Dr. Daniel Yohanna, a psychiatrist, noted a "stress reaction to a situation at work involving interaction between his new supervisor and himself." Dr. Yohanna did not further discuss work factors or provide a reasoned opinion on causal relationship. In a hospital discharge report dated April 18, 1997, Dr. Francois Alouf, a psychiatrist, noted that appellant had become angry and frustrated at his station manager, without providing further detail or an opinion on causal relationship.

In the absence of a reasoned medical opinion on causal relationship between a compensable work factor and a diagnosed emotional condition, the Board finds that appellant has not met his burden of proof in this case.

The Board further finds that the Office properly found that appellant abandoned his request for a hearing.

20 C.F.R. § 10.137 provides in pertinent part:

"A claimant who fails to appear at a scheduled hearing may request in writing 10 days after the date for the hearing that another hearing be scheduled. Where good cause is shown, another hearing will be scheduled. The failure of the claimant to request another hearing within 10 days, or the failure to appear at the second scheduled hearing without good cause shown, shall constitute abandonment of the request for a hearing."

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *See William P. George*, 43 ECAB 1159 (1992).

In this case, the Office sent a letter dated September 26, 1998 to appellant's address of record, advising him of a hearing scheduled for November 16, 1998. Appellant did not appear for the hearing. He asserted on appeal that the address on the September 26, 1998 letter was incorrect, but there is no evidence that appellant had notified the Office prior to the November 30, 1998 decision that his address had changed. The Office properly sent a notice of hearing to appellant's address of record, appellant failed to appear at the scheduled hearing and failed to request another hearing within 10 days. Accordingly, the Board finds that appellant abandoned his right to a hearing in this case.

The decisions of the Office of Workers' Compensation Programs dated November 30 and February 9, 1998 are hereby affirmed.

Dated, Washington, DC
October 19, 2000

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member