

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of EFRAIN CORDERO and U.S. POSTAL SERVICE,  
POST OFFICE, Arecibo, PR

*Docket No. 00-2684; Submitted on the Record;  
Issued August 1, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

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

This is the second appeal before the Board.<sup>1</sup> Previously, the Board remanded the case to the Office of Workers' Compensation Programs to develop the evidence regarding appellant's allegations of overwork.

On remand, the Office requested that the employing establishment furnish detailed information on appellant's hours of work and required duties. The Office also asked appellant to submit additional medical evidence from his treating physicians.

By decision dated August 5, 1999, the Office denied appellant's claim for compensation benefits on the grounds that appellant failed to establish that he had been subjected to overwork.

By letter dated August 23, 1999, appellant requested an oral hearing before an Office hearing representative.

By decision dated May 24, 2000, the Office hearing representative affirmed the Office's August 5, 1999 decision on the grounds that the evidence of record failed to establish that appellant had been overworked.

The Board finds that appellant has not met his burden of proof to establish that he sustained an emotional condition while in the performance of duty.

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

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<sup>1</sup> Docket No. 97-1983 (issued April 13, 1999).

adversely affected by factors of his federal employment.<sup>2</sup> 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.

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 her 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.<sup>3</sup>

The initial question presented is whether appellant has substantiated compensable factors of employment as contributing to his emotional condition. Appellant alleged that the employing establishment's denial of a February 1991 request for a transfer due to health problems contributed to his depression. Appellant stated that he filed a grievance, which was settled in March 1991. The Board previously found in this case that appellant's settlement agreement does not support a finding of error or abuse by the employing establishment. Thus, appellant has not established a compensable factor of employment.

Appellant further attributed his emotional condition to harassment by Postmaster Neida Oliveras. The Board previously found that since appellant had not submitted any factual evidence supporting particular instances of harassment by Ms. Oliveras, he had not established a compensable factor of employment.

The issue in this case is appellant's allegations of overwork. The Board previously noted that overwork can be a compensable factor of employment if substantiated by the record. Appellant alleged that, since he began delivering mail in 1982, his route "kept growing," that assistance was rarely given and that his requests for a route inspection were ignored. In 1990 appellant suffered a back injury and soon thereafter was given a new route. Appellant alleged that this route also continued to grow and that management continued to overwork him despite his back condition. When that particular route was eliminated, appellant chose another route. He stated that he worked overtime two or three days a week to complete the demands of this route.

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<sup>2</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

<sup>3</sup> *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

Although appellant testified at the oral hearing that his routes were excessive, he failed to provide objective evidence establishing that he was subjected to overwork. The postmaster stated that appellant's first route was inspected and was found to require five to six hours to complete. She stated that after appellant began to complain that his second route was too long, he was given assistance. The postmaster submitted a statement from the letter carrier who provided assistance to appellant, stating that the route required four to six hours. Also, an agency representative noted that appellant had been given three different routes since 1982 and that none of the routes required more than eight hours to complete.

The Board, therefore, finds that appellant failed to provide objective evidence establishing that he was overworked. Therefore, he has not substantiated a compensable factor of employment. Since no compensable factor of employment has been established, the Board will not address the medical evidence.<sup>4</sup>

The May 24, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
August 1, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>4</sup> See *Margaret S. Krzycki*, 43 ECAB 496 (1992).