

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID R. GRUNDEN and U.S. POSTAL SERVICE,
SUPPORT & REPAIR FACILITY, Memphis, TN

*Docket No. 00-37; Submitted on the Record;
Issued February 13, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

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

On September 12, 1996 appellant, then a supervisor of maintenance operations, filed a claim for stress caused by a strained relationship with his manager and by his forced relocation, related to the impending closure of the facility at which he worked. Appellant stopped work on August 30, 1996.

In a statement dated October 30, 1996, appellant further described the factors to which he attributed his emotional condition, diagnosed as a major depressive disorder, severe with psychotic features, in an August 30, 1996 report, by Dr. James I. Bright, a clinical psychologist.

Appellant stated that he was promoted and transferred to a position as supervisor of maintenance operations at the Memphis General Mail Facility in March 1991, that his schedule covered tour three on Sundays and Mondays and tour one on Thursdays, Fridays and Saturdays, that this schedule resulted in fatigue and insomnia and that he repeatedly requested relief from these hours but no action was taken. Appellant stated that in July 1995 he requested and received a transfer to the employing establishment, that he was temporarily assigned to the General Mail Facility some time after March 1996, that in August 1996 he was informed that the support and repair facility would close in January 1997 and that he then applied for postmaster positions but was not selected. Appellant alleged that in August 1996 he asked his manager if the supervisors would receive any assistance in obtaining another position or if they were on their own, that his manager became extremely agitated and stormed out of the room, that the manager "returned a few minutes later and informed me that I had really 'pissed him off.' I was shocked and dismayed by this outburst...."

In a letter dated May 13, 1997, the employing establishment stated that appellant accepted a position as a relief supervisor in March 1991 and complained of the schedule after several months and that with the impending closure of the maintenance and repair facility

appellant “requested and was granted a detail or temporary assignment to the Memphis Processing and Distribution Center....”

By decision dated September 2, 1997, the Office found that appellant had not established that he sustained an injury in the performance of duty, as he had not proven any compensable employment-related factors.

Appellant requested a hearing, which was held before an Office of Workers’ Compensation Programs’ hearing representative on July 15, 1998. At this hearing appellant testified that in August 1996 his manager “went ballistic” when appellant asked him if the employing establishment was going to help supervisors find jobs, that the guidelines for facility closures were not followed, that he was not given preferential treatment for hiring in other positions. Appellant also testified that his disability retirement application was based on the condition of his knees, that he had not lost any pay since he used paid leave until his employment was terminated and that he was only claiming medical expenses for the treatment of his emotional condition. In a letter dated July 17, 1998, the employing establishment advised the Office that appellant was separated by disability retirement effective July 14, 1998.

By decision dated September 24, 1998, the Office found that appellant had not established error or abuse in the employing establishment’s reassignments of appellant, that there was no evidence to support appellant’s allegations of inappropriate behavior by his supervisor, that appellant was reacting to the uncertainty of his position and that job insecurity was not covered under the Federal Employees’ Compensation Act.¹

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 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 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

The assignment of appellant’s work duties and work schedule are administrative matters, which are covered under the Act only where there is a showing of error or abuse.³ Appellant has alleged, but has not substantiated, error or abuse in his assignment to two different tours during the same week and in his reassignment upon the closure of the facility at which he worked. The denial of appellant’s applications for transfers or different jobs falls into this same category of

¹ 5 U.S.C. §§ 8101-8193.

² *Lillian Cutler*, 28 ECAB 125 (1976).

³ *Janet I. Jones*, 47 ECAB 345 (1996); *Alice M. Washington*, 46 ECAB 382 (1994).

administrative or personnel actions⁴ and appellant also has not shown any error or abuse in these matters. Appellant's job insecurity, including his fear of a reduction-in-force, is not a compensable factor of employment under the Act.⁵

Appellant alleged verbal abuse by his manager after he asked the manager whether supervisory personnel would get any help in finding other jobs when their facility closed.⁶ The Board has recognized the compensability of verbal altercations or abuse in certain circumstances. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under the Act.⁷ While appellant alleged that his supervisor informed him "that I had really 'pissed him off,'" the Board finds that the evidence does not establish harassment or verbal abuse. Appellant has not explained how such an isolated comment would rise to the level of harassment or verbal abuse.⁸ Even accepting the existence of a personality conflict arising between appellant and his supervisor, the evidence of record does not establish verbal abuse or harassment of appellant.⁹

Moreover, appellant must also submit rationalized medical evidence establishing that he has an emotional or psychiatric disorder and that such disorder is causally related to a compensable employment factor.¹⁰ This appellant has not done. Although his attending psychologist, Dr. Bright, set forth a history of a recent heated exchange between appellant and his supervisor in an August 30, 1996 report, there is no medical opinion evidence that this caused or aggravated appellant's major depressive disorder, the condition diagnosed by Dr. Bright. Appellant has not met his burden of proof.

⁴ *Donald W. Bottles*, 40 ECAB 349 (1988).

⁵ *Artice Dotson*, 42 ECAB 754 (1990).

⁶ *David W. Shirley*, 42 ECAB 783 (1991).

⁷ *Harriet J. Landry*, 47 ECAB 543 (1996); *Mary A. Sisneros*, 46 ECAB 155 (1994).

⁸ *Christophe Jolicoeur*, 49 ECAB 553 (1998).

⁹ See *Ernest J. Malagrida*, 51 ECAB ____ (Docket No. 98-238, issued January 19, 2000).

¹⁰ See *William P. George*, 43 ECAB 1159 (1992).

The decision of the Office of Workers' Compensation Programs dated September 24, 1998 is hereby affirmed.

Dated, Washington, DC
February 13, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member