

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LAWRENCE ADAMS and U.S. POSTAL SERVICE,
POST OFFICE, Houston, TX

*Docket No. 00-684; Submitted on the Record;
Issued February 7, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an injury in the performance of duty on September 16, 1998.

On October 16, 1998 appellant filed a traumatic injury claim (Form CA-1) alleging that he sustained a heart attack in the performance of duty on September 14, 1998.¹ He stated on the claim form that "stress caused by negligence" of two supervisors contributed to his injury.

By decision dated February 10, 1999, the Office of Workers' Compensation Programs determined that appellant had not established an injury in the performance of duty. In a decision dated August 13, 1999, an Office hearing representative reviewed the written record and affirmed the prior decision.

The Board finds that appellant has not established an injury in the performance of duty on September 16, 1998.

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.² 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;

¹ It appears from the record that the actual date of the incidents described by appellant was September 16, 1998.

² *Pamela R. Rice*, 38 ECAB 838 (1987).

and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.³

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 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.⁴

The Board notes that the claim filed in this case was a traumatic injury claim, a claim based on incidents occurring within one workday or shift.⁵ Although the record contains some evidence regarding incidents prior to September 16, 1998,⁶ the issue in this case is whether appellant has established an injury causally related to compensable work factors on September 16, 1998.

Appellant alleged that on September 16, 1998 he was told by supervisor McKelvey to bundle or "marry" flats of mail. In a narrative statement, appellant wondered "why is she deliberately trying to set me up, knowing fully well we are not allowed to marry mail." It is well established that administrative or personnel matters, although generally related to employment, are primarily administrative functions of the employer rather than duties of the employee.⁷ The Board has also found, however, that an administrative or personnel matter may be a factor of employment where the evidence discloses error or abuse by the employing establishment.⁸ To the extent that appellant is alleging that the instruction to bundle mail was erroneous or abusive, he has not presented any probative evidence in this regard. Appellant submitted a portion of the letter carriers handbook stating that, when letters and flats are cased together, care must be exercised to avoid having letters fall between pages. This is of little probative value in establishing that there was error or abuse in the request made to appellant.⁹ Unsupported

³ See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁴ *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ 20 C.F.R. § 10.5(ee).

⁶ There is, for example, a document providing a brief description of a September 10, 1997 incident involving appellant and supervisor McKelvey.

⁷ *Anne L. Livermore*, 46 ECAB 425 (1995); *Richard J. Dube*, 42 ECAB 916 (1991).

⁸ See *Michael Thomas Plante*, 44 ECAB 510 (1993); *Kathleen D. Walker*, 42 ECAB 603 (1991).

⁹ Appellant has written in the margin that this means carriers are not to marry mail, but appellant has not submitted additional evidence in this regard.

allegations of error or abuse are not sufficient to establish a compensable factor of employment.¹⁰

In narrative statements, supervisor McKelvey indicated that appellant was asked to bundle some mail on his route that had already been cased. Appellant stated he could not since it was already 12:00 p.m. and he was told that it was “okay” and appellant left to deliver his route.

The Board is unable to find any probative evidence of error or abuse in the administrative actions on September 16, 1998. Accordingly, the Board finds that appellant has not established a compensable work factor in this case. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.¹¹

The decisions of the Office of Workers’ Compensation Programs dated August 13 and February 10, 1999 are affirmed.

Dated, Washington, DC
February 7, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

¹⁰ See *Harriet J. Landry*, 47 ECAB 543, 547 (1996); *Martin Standel*, 47 ECAB 306, 308 (1996).

¹¹ See *Margaret S. Krzycki*, 43 ECAB 496 (1992).