

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRANK HUNTER and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Charlotte, NC

*Docket No. 00-2816; Submitted on the Record;
Issued July 19, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that he sustained an emotional condition in the performance of duty.

On March 7, 2000 appellant, then a 51-year-old mailhandler technician, filed a claim for an occupational disease alleging "stress on job." The employing establishment controverted the claim, noting appellant did not submit any medical documentation in support of his claim.

By letter dated April 3, 2000, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical evidence supportive of his claim. Appellant submitted a notation dated March 22, 2000 from Dr. Thomas Verville, which indicated that appellant was able to return to duty as of March 14, 2000.

By decision dated August 3, 2000, the Office found the evidence of record insufficient to establish that appellant sustained an emotional condition in the performance of duty.¹

The Board finds that appellant has failed to establish 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 illness has some connection with the employment, but nevertheless does not come within the coverage of the Federal Employees' Compensation Act. Where the disability results from an employee's emotional reaction to his regular or specially assigned work duties or requirements of the employment, the disability comes within the coverage of the Act. On the other hand, where

¹ On appeal, appellant has submitted new evidence. However, the Board cannot consider evidence that was not before the Office at the time of the final decision. *See Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35 (1952); 20 C.F.R. § 501.2(c)(1). Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 501.2(c).

disability results from such factors as an employee's emotional reaction to employment matters unrelated to the employee's regular or specially assigned work duties or requirements of the employment, the disability is generally regarded as not arising out of and in the course of employment and does not fall within the scope of coverage of the Act.²

Perceptions and feelings alone are not compensable. 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.³ 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.⁴

In this case, appellant has not submitted sufficient evidence to support his allegation that he sustained employment-related stress. Appellant failed to provide the Office with a description of those work duties or specify with detail any incidents arising from his employment to which he attributes his emotional condition. He merely alleged "stress on job." Further he submitted a medical note, dated March 22, 2000 on the letterhead of Dr. Thomas Verville, indicating that he was able to return to work as of March 24, 2000. No medical diagnosis or findings from any examination were described. Inasmuch as appellant has not submitted the necessary factual and medical evidence as requested by the Office to establish that his "stress" is compensable under the Act, he has failed to satisfy his burden of proof.⁵

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

³ *Pamela R. Rice*, 38 ECAB 838 (1987).

⁴ *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁵ The Board notes that the record contains medical evidence. However, unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. Inasmuch as appellant failed to implicate any compensable factors of employment, the Office properly denied his claim without reviewing the medical evidence of record. *Gary M. Carlo*, 47 ECAB 299, 305 (1996).

The August 3, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 19, 2001

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member