

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES H. PLITT, JR. and DEPARTMENT OF THE ARMY,  
ANNISTON ARMY DEPOT, Anniston, AL

*Docket No. 00-2144; Submitted on the Record;  
Issued June 11, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that his stress-related chest pain was causally related to compensable factors of his federal employment.

On March 19, 2000 appellant, then a 55-year-old lead security guard, filed a traumatic injury claim alleging that on March 15, 2000 his severe chest pain, dizziness, profuse sweating, blurred vision, numbness and tingling in his left arm and leg resulted from a verbal altercation with his supervisor during a counseling session. He stated that his chest pains were so severe that he had to be rushed to the hospital. Appellant stopped work on March 15, 2000 and returned on March 20, 2000. By decision dated May 23, 2000, the Office of Workers' Compensation Programs denied the claim on the grounds that compensable factors of employment had not been established.

The Board has reviewed the record and finds that appellant has not established an injury causally related to compensable factors of his federal employment.

To establish appellant's claim that he experienced extreme chest pain due to stress while in the performance of duty, appellant must submit the following: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to his condition; (2) rationalized medical evidence establishing that he has a diagnosed disabling condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his chest pain.<sup>1</sup>

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. Such an opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of

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<sup>1</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.<sup>2</sup>

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 concept of workers' compensation. These injuries occur in the course of employment and have some kind of causal connection with it but are not covered because they do not arise out of the employment. Distinctions exist as to the type of situations giving rise to an emotional condition which will be covered under the Federal Employees' Compensation Act.<sup>3</sup>

Generally speaking, when an employee experiences an emotional reaction to his or her regular or specially assigned employment duties or to a requirement imposed by his employment or has fear of anxiety regarding his or her ability to carry out assigned duties and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is regarded as due to an injury arising out of and in the course of the employment and comes within the coverage of the Act.<sup>4</sup> Conversely, if the employee's emotional reaction stems from employment matters which are not related to his or her regular or specially assigned work duties, the disability is not regarded as having arisen out of and in the course of employment and does not come within the coverage of the Act.<sup>5</sup> Noncompensable factors of employment include administrative and personnel actions, which are matters not considered to be "in the performance of duty."<sup>6</sup>

When working conditions are alleged as factors in causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.<sup>7</sup> When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard.

If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.<sup>8</sup> When the matter

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<sup>2</sup> *Id.*

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Donna Faye Cardwell*, *supra* note 1; *see also Lillian Cutler*, 28 ECAB 125 (1976).

<sup>5</sup> *Id.*

<sup>6</sup> *See Joseph Dedonato*, 39 ECAB 1260 (1988); *Ralph O. Webster*, 38 ECAB 521 (1987).

<sup>7</sup> *See Barbara Bush*, 38 ECAB 710 (1987).

<sup>8</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, then the Office must base its decision on an analysis of the medical evidence of record.<sup>9</sup>

In this case, appellant alleged that on March 15, 2000 his supervisor, James Walker, called him into his office to counsel him regarding his conduct. Appellant stated that during the counseling session he experienced sudden, severe chest pain and began shaking all over. When he tried to get up and leave the office, Mr. Walker ignored his distress, shouted at him to “sit the [expletive] down ... until I [am] [expletive] done with this counseling session” and refused to let him leave the office. Appellant added that Mr. Walker was aware that he had been diagnosed with high blood pressure and should have been more considerate.

The record also contains a statement from Mr. Walker, who acknowledged that on March 15, 2000 he called appellant into his office to counsel him regarding complaints he had received about the number of phone calls and visits appellant had been making to the office where his wife worked. Mr. Walker stated that, while he was talking to appellant, appellant grabbed his chest and began shaking all over and said “Why are you all [expletive] with me. Put me on leave I [am] going home.” Mr. Walker explained that, as appellant was holding his chest and shaking all over, he told him to sit down while he called an ambulance and then yelled for help. He stated that he kept trying to calm appellant down until the ambulance arrived and transported appellant to the hospital.

To the extent that appellant is alleging that he sustained an injury as a result of being reprimanded, he must establish error or abuse by the employing establishment. 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.<sup>10</sup> 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.<sup>11</sup> Unsupported allegations of error or abuse are not sufficient to establish a compensable factor of employment.<sup>12</sup>

The evidence of record does not support a finding of error or abuse. The employing establishment indicated that complaints about appellant’s conduct had been received and that these complaints required appellant to be counseled. There is also no evidence of record to support appellant’s allegation that, even after he began experiencing chest pain, Mr. Walker ignored his distress and told him to sit down until the counseling session was finished.

The evidence of record does not establish that actions taken by the employing establishment were unreasonable or otherwise constitute error or abuse in this case. The Board therefore finds that appellant has not substantiated a compensable factor of employment. As

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<sup>9</sup> See *Gregory J. Meisenberg*, 44 ECAB 527 (1993).

<sup>10</sup> *Anne L. Livermore*, 46 ECAB 425 (1995); *Richard J. Dube*, 42 ECAB 916 (1991).

<sup>11</sup> See *Michael Thomas Plante*, 44 ECAB 510 (1993); *Kathleen D. Walker*, 42 ECAB 603 (1991).

<sup>12</sup> See *Harriet J. Landry*, 47 ECAB 543, 547 (1996); *Martin Standel*, 47 ECAB 306, 308 (1996).

appellant has not established a compensable work factor, the Board will not address the medical evidence.<sup>13</sup>

The May 23, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
June 11, 2001

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>13</sup> See *Margaret S. Krzycki*, 43 ECAB 496 (1992).