

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM J. RODRIGUES and U.S. POSTAL SERVICE,
POST OFFICE, Walnut Creek, CA

*Docket No. 00-2292; Submitted on the Record;
Issued June 11, 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 March 7, 2000 appellant, then a 40-year-old stamp machine technician, filed a claim for acute anxiety disorder, headaches and chest pains that he attributed to emotional and psychological trauma. Appellant stated that on March 3, 2000 at 4:00 p.m. his supervisor informed him that management wanted him to move from his present office to a walk-in type vault. Appellant stated that he immediately informed his supervisor about his fear of being confined in such a small space, and filled out a report on unsafe working conditions.

The next morning, March 4, 2000, appellant informed his supervisor that he did not feel well and that he did not sleep at all the previous night because of the stress involving the move. Appellant added that his supervisor refused repeated requests to go home and that he then asked his supervisor to go to the vault so he could show her its inadequacies. Appellant stated that, as his supervisor went into the vault, he started to experience a post-traumatic attack, which recalled an episode 20 years earlier in which he was locked in a walk-in freezer for two to three hours during a restaurant robbery. He stated that his demonstration of how unsafe and unhealthy the vault was "went awry." Appellant explained to his supervisor that the traumatic episode was the deep-rooted cause of his fears regarding the move to the vault. He was placed on emergency suspension and escorted off the premises.

In a statement dated April 13, 2000, appellant's supervisor stated that two audits of appellant's stamps and cash revealed shortages. The supervisor wanted to move appellant from the converted storeroom he was using as an office to "make him accountable for his time and to monitor his work performance." His supervisor stated that on March 3, 2000 she informed appellant "that he would be clearing his things out of the room and locking his stamp stock and cash including the machines used to count the coins into the gated portion of the vault" for security. She also informed him that he would be able to work by the window area. The supervisor stated that appellant questioned the ventilation of the vault but did not mention being

locked in a freezer 20 years earlier. His supervisor related that on March 4, 2000 appellant came to work looking unkempt, stated that he had not been able to sleep and asked her about his report of hazard or unsafe conditions, which she told him she would answer. Appellant's supervisor stated that appellant then coerced her into the vault as if to show her something, locked her in and turned off the lights. After he let her out he tried to rationalize his behavior by telling her of the incident 20 years prior.

In a statement dated March 4, 2000 and an undated addendum, a coworker stated that he heard appellant and his supervisor having a discussion on moving him out of his office, that appellant told his supervisor that he did not want to go into the vault because he had a fear of being locked in, that appellant asked to go home several times, that his supervisor told him that either way he was going to move and that appellant then locked his supervisor in the vault.

In a March 9, 2000 statement, appellant's supervisor stated that, at the time appellant locked her in the vault, he had "never moved anything into the vault" and that appellant would not listen when she told him his desk would be on the open workroom floor and that he would be in the vault only to count his deposit and prepare his stamps. The report appellant submitted on March 4, 2000 alleged that the vault was "unhealthy due to the lack of proper air flow and ventilation for use as my office." Appellant's supervisor's responded that he would move his cash and stock from his present office to the vault for security, that appellant's desk would be on the open workroom floor and that his time in the vault would be very limited.

By decision dated June 15, 2000, the Office of Workers' Compensation Programs found that the evidence did not establish that appellant's injury occurred within the performance of duty.

The Board finds that appellant failed to meet his burden of proof 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 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 Federal Employees' Compensation 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.¹

While the working conditions, including the physical environment, of an employee's assignment can be covered under the Act,² the Board has distinguished situations involving

¹ *Lillian Cutler*, 28 ECAB 125 (1976).

² *See Gareth D. Allen*, 48 ECAB 438 (1997). (The working environment of the employee's remote location, which reminded him of his past imprisonment, was considered a compensable employment factor.)

inability to perform the duties of a newly assigned position from those where the employee has not yet begun working in the new position. In *Dodge Osborne*,³ the Board stated:

“Although appellant did not allege that his reassignment, *per se*, caused his emotional condition, but rather suggested that he was concerned that he would not be able to perform his new duties, this situation is distinguishable from *Jeffrey S. Miller*,⁴ a case in which the employee had actually attempted to perform his reassignment duties and was upset over his inability to satisfactorily perform the duties. In contrast, appellant in the instant case had not made any attempt to perform his reassignment duties before the onset of his anxiety attack. He stated that, on the day he reported for duty in his new job, he was given work-related reading materials prior to commencing any actual work duties and he experienced the anxiety attack one hour later. He acknowledged that he had not yet actually begun his new duties at the time of his anxiety attack but that ‘later in the day, [he] knew this equipment would be assigned to [him].’ Under these circumstances, appellant’s apprehension that he would not be able to perform his new work duties, without any actual attempt to perform these duties, was self-generated and not compensable under the Act.”⁵

The Board finds that the situation in this case is analogous to that in *Osborne*. Appellant’s reaction to the change in his work location and environment, like the change in work duties involved in that case, is self-generated and not compensable under the Act. Appellant did not react to working in the vault, which would involve the performance of his regular duties. Rather, his reaction stemmed from his fear of having his workstation changed.⁶ Appellant’s reaction to the proposed change of his work environment is self-generated and premised on his frustration over being permitted to work in a particular location. Under these circumstances, his emotional reaction is considered self-generated and not compensable under the Act.

Also not compensable under the Act is appellant’s reaction to the disciplinary action taken by the employing establishment in response to appellant locking his supervisor in the vault. Disciplinary actions are considered administrative functions of the employer and not duties of the employee and, as such, are covered under the Act only where error or abuse is shown.⁷ There is no evidence in the case record showing any error or abuse in the employing establishment’s suspension of appellant for locking his supervisor in the vault.

³ 44 ECAB 849, 856 (1993).

⁴ 41 ECAB 707 (1990). (The Board found that the employee’s reaction to his reassignment, *per se*, was not covered under the Act, but that his inability to perform the duties of his newly assigned position was covered.)

⁵ *Accord, Mary Margaret Grant*, 48 ECAB 696 (1997); *Cf. Peggy R. Lee*, 46 ECAB 527 (1995). (The Board found that the employee failed to establish that she was unable to perform her light-duty work assignments due to a change to the day shift and that her emotional reaction was self-generated and arose from not being permitted to work in the particular environment she desired.)

⁶ The record indicates that appellant’s desk would be in an open area, rather than the enclosed office he had previously occupied and that his stamps and supplies would be placed in the vault.

⁷ *Sharon R. Bowman*, 45 ECAB 187 (1993).

The June 15, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
June 11, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member