

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of STANLEY C. KNAPEK and U.S. POSTAL SERVICE, ALBANY GENERAL  
MAIL FACILITY, Albany, NY

*Docket No. 00-2604; Submitted on the Record;  
Issued June 15, 2001*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

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

On October 1, 1999 appellant, then a 44-year-old distribution clerk, filed an occupational disease claim alleging that he developed depression and stress due to his federal employment. Appellant stated that management had been harassing him due to his medical condition. He stated that he supplied medical documentation for his condition and that he requested sick leave under the Federal Medical Leave Act (FMLA) and he either was charged with being absent without leave (AWOL) or put on leave without pay (LWOP). Appellant further stated that he had to wait to get his pay adjusted rather than getting paid on time. He alleged that he was turned down for a transfer to Syracuse, New York, to be with his children. Appellant stopped work on August 24, 1999. His claim was accompanied by documents regarding the employing establishment's controversion of his claim and disciplinary actions and medical documents concerning his emotional condition.

By letter dated November 5, 1999, the Office of Workers' Compensation Programs advised appellant and the employing establishment that the evidence submitted was insufficient to establish his claim. The Office also advised appellant to submit additional factual and medical evidence supportive of his claim.

In response to the Office's request, the employing establishment submitted medical documents regarding appellant's emotional condition. He submitted an October 14, 1999 narrative statement providing specific details of his allegations. Appellant stated that he discussed his request for a transfer with Nunzio Hughes, an employing establishment supervisor and that Mr. Hughes told him that he would give him a recommendation. He further stated that when he asked Mr. Hughes about the status of his request for a transfer, he told him "that they are not going to take you, I would not take you. I will not recommend you. You are a bad employee and nothing but trouble." Appellant additionally stated that he informed Peg Lynch, an employing establishment employee, on June 3, 1999 that his eldest son was sick and that he

wished to take leave under the FMLA. He stated that Ms. Lynch was reluctant to let him go. Appellant noted that he discussed this with Dan Lilly, a manager of labor relations at the employing establishment, as well as, the reopening of his Merit Systems Protection Board (MSPB) case. He noted that Ms. Lynch later approved his request. Appellant indicated that he had problems with receiving his pay because appropriate medical documentation had not been submitted, but that later Arlene Druzba, an employing establishment employee, told him, that he did submit medical documentation, but that it had been misfiled. Appellant further indicated that he did not receive his pay as promised by Ms. Lynch. He also submitted letters in support of his request for a transfer. In addition, appellant submitted employment records, medical documents and grievances he filed against the employing establishment.

In response to the Office's February 28, 2000 request that it respond to appellant's narrative statement, the employing establishment submitted narrative statements and decisions regarding appellant's grievances.

In a March 28, 2000 decision, the Office denied appellant's claim for compensation. The Office found that appellant failed to establish that his emotional condition was caused by compensable factors of employment.

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 or her 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 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.<sup>1</sup>

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.<sup>2</sup> 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

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>2</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>3</sup>

Appellant has attributed his depression and stress to several incidents, which involve administrative matters. The employing establishment's request for medical documentation,<sup>4</sup> handling of appellant's request for sick leave<sup>5</sup> and denial of appellant's request for a transfer to Syracuse, New York,<sup>6</sup> charge of appellant for being AWOL and placement of appellant on LWOP<sup>7</sup> involve administrative or personnel matters, which do not constitute compensable factors of employment under the Act absent evidence of error or abuse.<sup>8</sup> Appellant has not submitted evidence establishing error or abuse by the employing establishment in handling the above matters. He submitted a February 23, 1999 letter from Olivia Cambs, the principal of appellant's eldest son's high school, a May 28, 1999 letter from his former wife, Patricia Allen-Knappek and an undated letter from Joseph Petronio, a coworker, supporting his request for a transfer to Syracuse New York, for the benefit of his children, particularly his eldest son, Michael. These letters fail to establish that the employing establishment committed error or abuse in denying appellant's request for a transfer to Syracuse, New York. In response to appellant's allegation that he was unduly denied a transfer to Syracuse, New York, the employing establishment submitted a March 13, 2000 note from Mr. Hughes revealing that he told appellant that he could apply for the transfer, but that he probably would not be approved. Mr. Hughes stated that, he had no say in the matter and that it was up to the receiving office, Syracuse, New York, to approve the transfer. In a March 21, 2000 letter, Mr. Lilly stated that appellant talked to him on a couple of occasions about the denial of his request for a transfer to Syracuse New York, and that appellant was unhappy about the denial. He has failed to establish that the employing establishment committed error or abuse in denying his request for a transfer, he has not established a compensable factor of employment.

The filing of grievances by appellant against the employing establishment for his removal for being charged AWOL and harassment based on national origin and sex involve administrative or personnel matters.<sup>9</sup> Regarding appellant's grievances and request to reopen his MSPB case, Mr. Lilly denied any recollection about reopening appellant's MSPB case in a March 21, 2000 letter. Appellant has not submitted any evidence establishing that the employing establishment committed error or abuse in taking disciplinary action against him or submitted a decision finding that he was harassed. Therefore, he has not established a compensable factor of employment.

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<sup>3</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>4</sup> *Thomas D. McEuen*, 41 ECAB 389 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

<sup>5</sup> *Donald E. Ewals*, 45 ECAB 111, 124-25 (1993).

<sup>6</sup> *Donald W. Bottles*, 40 ECAB 349, 353 (1988).

<sup>7</sup> *See Jimmy Gilbreath*, 44 ECAB 555 (1993).

<sup>8</sup> *Margreate Lublin*, 44 ECAB 945 (1993).

<sup>9</sup> *Janet I. Jones*, 47 ECAB 345, 347 (1996).

In response to appellant's allegation that he did not receive appropriate pay due to his failure to submit medical documentation, Ms. Druzba denied that appellant's medical documentation had been misfiled in a March 3, 2000 note. She stated that appellant's documentation may not have been filed at the time that she spoke to appellant. He has failed to establish that the employing establishment committed error or abuse in handling his pay and thus, he has not established a compensable factor of employment under the Act.

As appellant has not established any compensable factors of his federal employment that he implicates in causing or contributing to the development of his emotional condition, appellant has failed to meet his burden of proof to establish that he sustained an emotional condition in the performance of duty.<sup>10</sup>

The decision of the Office of Workers' Compensation Programs dated March 28, 2000 is hereby affirmed.

Dated, Washington, DC  
June 15, 2001

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>10</sup> As appellant has not submitted the necessary evidence to substantiate a compensable factor of employment, the medical evidence need not be reviewed in this case.