U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDWARD GREEN and U.S. POSTAL SERVICE,
POST OFFICE, Fort Walton Beach, FL

Docket No. 00-2143; Submitted on the Record;
Issued May 25, 2001

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he developed an emotional condition due to factors of his federal employment.

Appellant, a 57-year-old letter carrier, filed a notice of occupational disease on May 8, 1998 alleging that he developed anxiety and stress due to factors of his federal employment. The Office of Workers' Compensation Programs requested additional factual evidence by letter dated June 16, 1998. By decision dated March 18, 1999, the Office denied appellant's claim finding that he failed to substantiate a compensable factor of employment. He requested an oral hearing and by decision dated January 5, 2000, the hearing representative affirmed the Office's March 18, 1999 decision.

The Board finds that appellant failed to meet his burden of proof in establishing that he developed an emotional condition due to factors of his federal employment.

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. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment to hold a particular position.[1]

Appellant attributed his emotional condition to a change in the amount of time allotted to complete his route. Appellant alleged that he had more stops and was granted less time to

[1] *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

perform his duties. The postmaster, Gene Presley responded and stated that appellant's route size was actually reduced.

Appellant also alleged that he was told to go faster and do more. His attending physician, Dr. Eugene R. Valentine, a Board-certified psychiatrist, stated that appellant was required to work a great deal of overtime.

Supervisor Stephen E. MacLeod noted that he used the phrase "Bump it up a notch" to encourage greater production. However, he also noted that appellant performed his route in eight hours or less except for Mondays, that appellant had voluntarily entered his name on the overtime desired list and that appellant readily volunteered for extra work. Mr. MacLeod noted that appellant generally had two or three hours of undertime on Saturdays. Appellant has submitted no corroborating evidence of the alleged factor of overwork and, therefore, has not established this factor of employment.

Appellant stated that he requested a "mutual swap" to transfer to a different employing establishment. He noted that this transfer did not occur. The Board has held that denials by an employing establishment of a request for a different job, promotion or transfer are not compensable factors under the Federal Employees' Compensation Act, as they do not involve appellant's ability to perform his regular or specially assigned work duties, but rather constitute appellant's desire to work in a different position.[2] Thus, appellant has not established a compensable employment factor under the Act in this respect.

Appellant alleged that other employees and supervisors engaged in constant arguments and confrontations on the workroom floor. The employing establishment denied the allegations. Furthermore, the interaction between other employees and management which did not involve appellant is not a compensable factor of employment. An employee's dissatisfaction with working in an environment in which others have disagreements or otherwise undesirable conditions, constitutes frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable under the Act.[3]

Appellant alleged that the rules at the employing establishment constantly changed and that he was subjected to frequent threats of discipline. In support of this allegation, appellant submitted documents from the employing establishment noting the safety requirements of the position and the consequences if these safety procedures were not followed. In his July 1, 1998 statement, Mr. Presley denied that there were frequent rule changes.

The documents submitted by appellant pertain to the administration of personnel matters. As a general rule, an employee's emotional reaction to an administrative or personnel matter is not covered under the Act. But error or abuse by the employing establishment in what would otherwise be an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in the administration of a personnel matter, may afford coverage. In determining whether the employing establishment erred or acted abusively, the Board has

[2] *Donald W. Bottles*, 40 ECAB 349, 353 (1988).

[3] *See David M. Furey*, 44 ECAB 302, 305-06 (1992).

examined whether the employing establishment acted reasonably.[4] In this case, appellant has submitted no evidence that the employing establishment acted abusively in requiring that workers abide by safety regulations.

In a meeting held on April 17, 1998, appellant alleged that Supervisor Yolondra Austin stated that appellant could no longer drive on sidewalks to carry his route. Appellant stated that he requested that Ms. Austin rides his route with him and that she refused. He stated that she attempted to "set him up" by suggesting that he park half on the sidewalk and half on the street. Appellant stated that a coworker had been fired for this practice.

The employing establishment responded to these allegations. Ms. Austin stated that carriers were reminded on April 17, 1998 that they should obey traffic laws including not driving on sidewalks. She stated that she volunteered to look at appellant's route to see what changes might be made when he protested. Mr. Presley stated that the April meeting was a reminder to all personnel to obey traffic laws. He stated: "Driving from delivery to delivery with all four wheels on the sidewalk is not and has never been acceptable."

Appellant has submitted no supporting evidence that there was a change in his work requirements. Although he alleged that he had previously been allowed to drive on the sidewalk and that he could not deliver his route without doing so, the employing establishment refuted this allegation and stated that this was never an accepted practice. As there is no evidence supporting appellant's allegations that he was attempting to meet his position requirements by driving down the sidewalk and that Ms. Austin denied his request to review his route, appellant has not established these factors of employment.

As appellant has failed to substantiate a compensable factor of employment, he failed to meet his burden of proof in establishing that he sustained an emotional condition as a result of his federal employment.

[4] *Martha L. Watson*, 46 ECAB 407 (1995).

The January 5, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 25, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member