U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAFAEL RODRIGUEZ and U.S. POSTAL SERVICE,
POST OFFICE, Villalba, PR

Docket No. 00-2163; Submitted on the Record;
Issued May 25, 2001

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

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

The Board has carefully reviewed the case record and finds that appellant has failed to meet his burden of proof in establishing that his anxiety and depression were caused by work factors.

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 duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.[1] 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.[2]

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 employment factors.[3] This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.[4]

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[1] 5 U.S.C. §§ 8101-8193.

[2] *See Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

[3] *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

[4] *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office of Workers' Compensation Programs, 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.[5] If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.[6]

The initial question is whether appellant has alleged compensable factors as contributing to his condition.[7] Thus, part of appellant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents, which he believes caused or adversely affected the condition for which he claims compensation.[8] If appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.[9]

In this case, appellant, a 43-year-old letter carrier, filed a notice of traumatic injury on July 5, 1999 alleging that his stress, high blood pressure and emotional damage were due to Angel L. Colon, Postmaster of Villalba, using offensive language including the word fraud when appellant requested assistance on June 25, 1999. Appellant also alleged the Mr. Colon accused him of violating policy by eating lunch at home when Mr. Colon had previously agreed to this arrangement and admonishing him in front of his coworkers.

By letter dated August 2, 1999, the Office informed appellant that he needed to submit medical evidence and advised appellant that reactions to administrative actions are considered to be self-generated unless error or abuse on the part of the employing establishment is shown.

On October 13, 1999 the Office denied appellant's claim on the grounds that the evidence failed to establish that his emotional condition was in the performance of duty. The Office noted that the work factor cited by appellant was not compensable as his reaction to Mr. Colon's comments were self-generated and no error or abuse on the part of the employing establishment was shown.

In a letter dated November 8, 1999, appellant requested an oral hearing, which was held on February 28, 2000. By decision dated May 17, 2000 and finalized on May 18, 2000, the hearing representative denied appellant's claim on the grounds that he failed to establish that the employing establishment acted abusively or erroneously on June 25, 1999 and that appellant's reaction was self-generated. The hearing representative found that appellant had failed to

[5] *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

[6] *Id.*

[7] *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

[8] *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

[9] *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

establish any compensable factor of employment and affirmed the October 13, 1999 decision denying appellant's claim.

Appellant's allegations that the employing establishment engaged in improper action by accusing appellant of fraud relate to administrative or personnel matters are unrelated to the employee's regular or specially assigned work duties and do not fall within the coverage of the Act.[10] Although the handling of disciplinary actions, evaluations and leave requests, the assignment of work duties, and the monitoring of activities at work are generally related to the employment, they are administrative functions of the employer and not duties of the employee.[11]

However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.[12] In the instant case, there is no evidence to establish that the employing establishment acted unreasonably. The November 3, 1999 Equal Employment Opportunity settlement agreement submitted by appellant does not establish that the employing establishment acted erroneously or abusively as it contained no stipulation that Mr. Colon had erred in admonishing appellant in front of his coworkers or that he intended to use "fraud" to imply criminal activity. Thus, appellant has not established a compensable employment factor under the Act with respect to administrative matters.

The decisions of the Office of Workers' Compensation Programs dated May 17, 2000 and finalized May 18, 2000 and October 13, 1999 are hereby affirmed.

Dated, Washington, DC
May 25, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

[10] *See Janet I. Jones*, 47 ECAB 345, 347 (1996), *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

[11] *Id.*

[12] *See Richard J. Dube*, 42 ECAB 916, 920 (1991).