

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL L. McDANIEL and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, OH

*Docket No. 01-1286; Submitted on the Record;
Issued August 19, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

On April 29, 2000 appellant, then a 47-year-old motor vehicle operator, filed a claim for compensation benefits asserting an abusive and hostile work environment. In addition to retaliation, discrimination, a personal vendetta, animosity and intimidation, he alleged a violation of his civil rights.

The Office of Workers' Compensation Programs requested additional information to support his claim. On June 7, 2000 the Office acknowledged receipt of appellant's package of evidence, which included several grievance complaints, precomplaint counseling applications, a notice of revocation of his driving privileges, a grievance settlement, a notice of suspension and copies of Equal Employment Opportunity (EEO) Commission laws and regulations. The Office advised appellant that this information was insufficient to support his claim; he needed to submit a narrative description of the events or incidents that he believed contributed to his claimed condition. The Office also noted that appellant had failed to provide any medical documentation to support that he experienced an emotional condition because of his federal employment. The Office requested that appellant submit a detailed narrative medical report with a reasoned opinion on the cause of his diagnosed condition.

Appellant replied, charging 12 specific violations by the employing establishment. In a narrative, he asserted that the employing establishment had violated his civil rights and had retaliated and discriminated against him for unjust cause. He described being charged on February 28, 2000 with a vehicle accident, which he disputed. Appellant filed a grievance, which was settled and an EEO complaint. He was charged a violation of this settlement when he was suspended for unjust cause. Appellant described another motor vehicle incident on April 14, 2000, resulting in the immediate suspension of his driving privileges without proper investigation. He received notice on May 1, 2000 that he no longer qualified for his position and that he was to report to another craft. Appellant asserted a conspiracy to remove him from his craft because of his union and EEO activities and filed a grievance for violation of his civil

rights. He described being denied release time as a union steward for unjust cause. Appellant filed a grievance and an unfair labor charge. The grievance was settled, but appellant alleged a violation of the settlement. He further described being charged as absent without leave on April 17, 2000, though he had requested seven hours of annual leave that night.

Appellant also submitted medical documentation indicating that he had uncontrolled hypertension. He reported to the medical staff that he had been under a great deal of stress at work and was going to get stress-related disability. Appellant also submitted medical documentation indicating that he had a left knee contusion/strain in June 2000.

In a decision dated October 31, 2000, the Office denied appellant's claim for compensation benefits. The Office found that appellant had implicated personnel or administrative functions of the employing establishment but had submitted no evidence supporting error or abuse in these matters. The Office further found that appellant had submitted no medical evidence of substantial probative value to support his claim.

The Board finds that appellant has not met his burden of proof to establish that he sustained an emotional injury in the performance of duty.

Workers' compensation law does not cover each and every illness that is somehow related to one's employment.¹ An emotional reaction to an administrative or personnel action is not compensable unless the evidence shows error or abuse on the part of the employing establishment.² Allegations alone by a claimant are insufficient.³ Mere perceptions and feelings of harassment or discrimination will not support an award of compensation. The claimant must substantiate such allegations with probative and reliable evidence.⁴

Appellant has alleged retaliation, discrimination and other errors by the employing establishment in several administrative or personnel matters, but he has failed to substantiate these allegations with probative and reliable evidence. The evidence he submitted does not establish error or abuse by the employing establishment, and his perceptions and feelings of retaliation, discrimination and other errors are insufficient to establish a factual basis for his claim.⁵

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

² *Thomas D. McEuen*, 42 ECAB 566, 572-73 (1991), *reaff'd on recon.*, 41 ECAB 387 (1990).

³ See *Kathleen D. Walker*, 42 ECAB 603 (1991); *Arthur F. Hougens*, 42 ECAB 455 (1991); *Ruthie M. Evans*, 41 ECAB 416 (1990) (in each of these cases the Board looked beyond the claimant's allegations of unfair treatment to determine if the evidence corroborated such allegations).

⁴ *Joel Parker, Sr.*, 43 ECAB 220, 225 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990) (for harassment to give rise to a compensable disability, there must be some evidence that harassment or discrimination did in fact occur); *Pamela R. Rice*, 38 ECAB 838 (1987) (claimant failed to establish that the incidents or actions which she characterized as harassment actually occurred).

⁵ The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). The Board therefore has no jurisdiction to review new evidence submitted by appellant for the first time on appeal.

Moreover, appellant has submitted no medical opinion evidence to support his claim that he has an emotional condition causally related to his federal employment. The claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment.⁶ This burden includes the submission of a detailed description of the employment factors that he believes caused or adversely affected the condition for which he claims compensation.⁷ The claimant's burden of proof is not discharged by the fact that he has identified employment factors that may give rise to a compensable disability. He must also submit a well-reasoned medical opinion establishing that he has an emotional or psychological disorder and that such disorder is causally related to the compensable and established employment factors.⁸

Causal relationship is a medical issue,⁹ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's opinion on whether there is a causal relationship between the claimant's diagnosed condition and the implicated factors of employment. The opinion of the physician must be based on a complete factual and medical background, must be one of 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 the claimant.¹⁰

The Office advised appellant of the information needed to support his claim and provided him ample opportunity to submit such information. Because he failed to submit evidence to support one of the essential elements of his claim, namely, that he has a diagnosed medical condition that is causally related to his federal employment, the Board finds that appellant has failed to make a *prima facie* claim for compensation.¹¹

⁶ *Pamela R. Rice*, *supra* note 4 at 841.

⁷ *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (one of the essential elements of a claim is that the claimant specify factors of his employment that he believes have caused an injury, such as an emotional or hypertensive condition).

⁸ *See William P. George*, 43 ECAB 1159, 1168 (1992).

⁹ *Mary J. Briggs*, 37 ECAB 578 (1986).

¹⁰ *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ *See Herman E. Harris*, Docket No. 91-1754 (issued April 29, 1992) (finding that the claimant failed to establish a *prima facie* claim for compensation where he submitted no medical opinion relating his occupational disease or condition to factors of his federal employment).

The October 31, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
August 19, 2002

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member