

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FURMAN C. EDWARDS and DEPARTMENT OF THE NAVY,
NAVAL AIR STATION NORTH ISLAND, San Diego, CA

*Docket No. 01-1277; Submitted on the Record;
Issued January 7, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an emotional condition causally related to factors of his federal employment.

On November 2, 1999, appellant, then a 51-year-old grounds maintenance laborer, filed an occupational disease claim, alleging that he developed insomnia, stress and depression as a result of harassment stemming from conflicts with a crew leader. Appellant also submitted with his claim a statement that a coworker threatened to attack him. Appellant further alleged that his crew leader had him work in a contaminated place that caused him to break out in a rash on both legs, and that this caused stress. Finally, he stated that his crew leader would give confusing instructions and would come by many times and make him "look bad around people" and that this caused further stress.

In a November 6, 1999 statement, appellant's supervisor noted that on September 17, 1999 he had a meeting with appellant and his crew leader regarding appellant's failure to follow the crew leader's instructions, and that at 10:30 a.m. that day, appellant went home sick.

By letter dated January 18, 2000, the Office of Workers' Compensation Programs requested further information from appellant. Appellant responded in a note wherein he stated that his crew leader told him that he was getting complaints about his work. Appellant also alleged that some of his tools were missing and others were unsafe. Finally, he reiterated that he had problems getting along with his crew leader and again alleged that he suffered from a rash from working in a contaminated place.

By decision dated November 1, 2000, the Office denied appellant's claim.

The Board finds that appellant has failed to establish that his emotional condition was causally related to compensable factors of his federal employment.

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.¹ 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 opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.²

Worker's compensation laws are not applicable 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 workers' compensation. Distinctions exist as to the types of situations giving rise to an emotional condition that will be covered under the Federal Employees' Compensation Act. When the disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within the coverage of the Act. On the other hand, there are situations where an injury has some connection with the employment, but nonetheless does not come within the coverage of workers' compensation because it is not considered to have arisen in the course of employment.³

Initially, the Board notes that appellant has provided no supporting documentation to show that he was harassed in the course of his federal employment. Verbal altercations or abuse in the workplace may constitute a compensable factor of employment.⁴ However, for harassment to give rise to a compensable disability under the Act, there must be evidence that the harassment or discrimination did, in fact, occur.⁵ Mere perceptions or feelings of harassment do not constitute a compensable factor of employment.⁶ An employee's charge that he or she was harassed or discriminated against is not determinative of whether or not harassment or discrimination occurred.⁷ To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.⁸ In the present case, the Board finds that appellant has not supported his allegations of harassment and discrimination with sufficient probative evidence. Appellant has not provided specific details of the alleged harassment. Furthermore, he has provided no supporting documentation of

¹ *Edward C. Heinz*, 51 ECAB ____ (Docket No. 99-992, issued September 12, 2000); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

² *Ray E. Shotwell, Jr.*, 51 ECAB ____ (Docket No. 99-2032, issued September 12, 2000); *Donna Faye Cardwell*, *supra* note 1.

³ *Beverly Diffin*, 48 ECAB 125, 128 (1996).

⁴ *See Harriet J. Landry*, 47 ECAB 543, 546 (1996).

⁵ *Sheila Arbour (Vincent E. Arbour)*, 43 ECAB 779 (1992).

⁶ *See Lorraine E. Schroeder*, 44 ECAB 323 (1992).

⁷ *William P. George*, 43 ECAB 1159 (1992).

⁸ *See Frank A. McDowell*, 44 ECAB 522 (1993); *Ruthie M. Evans*, 41 ECAB 416 (1990).

any harassment. Accordingly, appellant has not met his burden of proof to establish that he was harassed.

Furthermore, appellant has not provided any supporting documentation to support his claim that he suffered from a rash that was caused by working in a contaminated area at work or that he was threatened by another employee. Without such evidence, these alleged factors are not compensable.

Appellant also alleges that he had difficulties with his crew leader in that he would come by many times to monitor his work and would make him look bad around people. The Board has held that a claimant's feelings or perceptions that a form of criticism or disagreement is unjustified, inconvenient, or embarrassing is self-generated and does not give rise to coverage under the Act absent evidence that the interaction was, in fact, abusive.⁹ Mere dislike of a supervisory or management action will not be compensable without a showing through supporting evidence that the incidents complained of were unreasonable. Appellant has not made that showing in this case.

The decision of the Office of Workers' Compensation Programs dated November 1, 2000 is affirmed.

Dated, Washington, DC
January 7, 2002

Michael J. Walsh
Chairman

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member

⁹ See *Abe E. Scott*, 45 ECAB 164, 171 (1993).