

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of AFRAIN LUIGGI and U.S. POSTAL SERVICE,
POST OFFICE, San Juan, PR

*Docket No. 02-50; Submitted on the Record;
Issued June 3, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an emotional condition in the performance of duty.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not met his burden of proof.

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

Under regulations promulgated pursuant to the Act, a claim for occupational disease or illness must be accompanied by a statement from the employee to include:

“(1) A detailed history of the disease or illness with identification of part(s) of the body affected;

“(2) Complete details of type of substances or conditions of employment believed responsible for the disease or illness;

“(3) A description of specific exposures to substances or stressful conditions, including locations, frequency and duration and;

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

“(4) Whether the employee ever suffered a similar condition and, if so, full details of onset, history and medical care received with names and addresses of physicians rendering treatment.”²

In the present case, on August 14, 1998, appellant, then a 53-year-old retired letter carrier, filed a claim for occupational disease alleging that he developed delusional and depressive disorders due to adverse treatment and discrimination by management. He stated that he was informed of his diagnosis by his treating physician on August 3, 1998. On the reverse side of the CA-2 form, the employing establishment noted that appellant retired on disability effective January 30, 1998. The Office of Workers’ Compensation Programs, by letter dated June 7, 1999, noted that it appeared from the Office’s review of appellant’s claim and evidence submitted in support thereof, that the basis for the current claim is relatively the same as the issues which were addressed under appellant’s prior emotional condition claim, number 020719702.³ The Office advised appellant that he needed to submit a statement describing the new issues and or compensable factors which formed the basis for his new claim.

In a decision dated September 27, 1999, the Office denied appellant’s claim on the grounds that he failed to identify the incidents or conditions upon which his current claim was based. The Office noted that while appellant had submitted a narrative statement and supporting documentation, the same or similar information and arguments had been submitted in support of appellant’s prior emotional condition claim, number 020719702 and had been previously considered by the Office in its merit decision dated March 31, 1997 and in its decisions denying further review dated May 20, 1998 and August 30, 1999.

By letter dated October 23, 1999, appellant requested an oral hearing. At the hearing, held on March 26, 2001, he was represented by counsel and testified on his own behalf. Appellant primarily alleged that despite several accepted employment injuries which limited his ability to perform the full duties of a letter carrier, management insisted that he work outside of his physical restrictions and denied his leave requests. He further testified that he retired from the employing establishment at the end of February 1997.⁴ Appellant also submitted additional factual and medical documentation in support of his claim.

In a decision dated June 20, 2001, an Office hearing representative affirmed the Office’s September 27, 1999 decision.

² 20 C.F.R. § 10.100(b).

³ In support of his claim, appellant submitted a narrative statement primarily attributing his emotional condition to a September 20, 1996 confrontation with Postmaster Pedro R. Soto and to Postmaster Soto’s “chasing him all over the route,” speaking to him in a confrontational and aggressive manner and denying his requests for leave. Appellant also submitted: (1) a letter from the Office accepting a claim for a back contusion; (2) a memorandum dated December 9, 1996 from Postmaster Soto denying appellant’s request for leave without pay; (3) a memorandum dated April 23, 1997 from Mr. Soto denying appellant’s request for sick leave; (4) a memorandum dated January 24, 1994 from Mr. Soto requesting medical documentation outlining appellant’s physical restrictions; and (5) a medical report dated December 18, 1991 finding appellant not fit for duty as a letter carrier.

⁴ As noted above, the employing establishment indicated that appellant retired on disability effective January 30, 1998.

The Board notes that appellant has not, in his hearing testimony, narrative statement or elsewhere, described specific incidents and conditions of his employment that allegedly form the basis for his current claim. All of the arguments and issues raised were previously adjudicated by the Office in its decision dated March 31, 1997. In the absence of such a statement, setting forth the basis of the current claim, the Board is unable to determine whether appellant's allegations are substantiated⁵ or whether the factors to which he attributes his disability come within the coverage of the Act, as described above.⁶ Even though appellant submitted new medical reports which contain some references to employment factors, this does not obviate the requirement that appellant personally prepare a description of specific incidents and conditions of employment on which he bases his current claim.⁷ This is especially necessary in light of the fact that appellant had retired from the employing establishment by the time the Office issued its final decision on his prior claim and, therefore, it is difficult to determine what employment factors could form the basis for the current claim. In cases, such as the present one, involving emotional conditions,⁸ the Board has held that, until a claimant has identified incidents or occurrences that are alleged to have arisen out of the employment for compensation purposes, it is unnecessary to address the medical evidence.⁹

As appellant has not submitted information necessary to the proper adjudication of his claim, he has not met his burden of proof.

⁵ See *Rita L. Power*, 35 ECAB 403 (1983).

⁶ See *John A. Snowberger*, 34 ECAB 1262 (1983).

⁷ *George Tseko*, 40 ECAB 948 (1989).

⁸ With regard to emotional condition cases in general, see *Lillian Cutler*, 28 ECAB 125 (1976).

⁹ See *Richard J. Dube*, 42 ECAB 916 (1991). Regarding a claimant's burden of proof in an emotional condition claim, see *Kathleen D. Walker*, 42 ECAB 603 (1991).

The decision of the Office of Workers' Compensation Programs dated June 20, 2001 is affirmed.

Dated, Washington, DC
June 3, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member