

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SAMUEL LOPEZ-RAMOS and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, San Juan, PR

*Docket No. 02-108; Submitted on the Record;
Issued June 4, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained an emotional condition in the performance of his duties.

On March 1, 2001 appellant, then a 53-year-old computer specialist, filed an occupational disease claim asserting that his adjustment disorder, mixed, was a result of his federal employment. He took issue with his supervisor's management style and submitted a statement detailing incidents alleging harassment by his supervisor.

Appellant also submitted a January 29, 2001 report from Dr. Jorge A. Sánchez, a psychiatrist, who reported that appellant's adjustment disorder, mixed, seemed to be caused by his employment. He explained that appellant was doing well until August 2000, when a new supervisor arrived at his department. Appellant felt this supervisor wanted to "destroy" him and his coworkers. His stress became overwhelming to the point of physical and psychological dysfunction. Appellant's coping ability became diminished, causing feelings of insecurity, inadequacy and fear of possibly losing control if confronted directly by his supervisor. Dr. Sánchez advised that appellant did not appear to represent a threat to himself or others but should not work directly with this supervisor.

To further support his claim, appellant submitted printouts of numerous internal email messages, together with a memorandum dated March 29, 2001.

In a decision dated September 24, 2001, the Office of Workers' Compensation Programs denied appellant's claim for compensation. The Office found that appellant's allegations were unsupported by the evidence and that he failed to show error or abuse in any of the administrative actions taken by his supervisor.

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

Workers' compensation law does not cover each and every injury or illness that is somehow related to one's employment. There are situations in which an injury or illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. Generally, an employee's emotional reaction to an administrative or personnel matter is not covered under the Federal Employees' Compensation Act, though error or abuse by the employing establishment in an administrative or personnel matter may afford coverage.¹

Mere perceptions or feelings of error or abuse, however, are insufficient to establish a compensable factor of employment. A claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.²

Appellant seeks compensation benefits on the grounds that his adjustment disorder, mixed, was a result of the actions of his supervisor. As a general rule, such an emotional reaction falls outside the scope of workers' compensation, even though it has some connection with employment. To establish that his claim is compensable, appellant must submit probative and reliable evidence sufficient to demonstrate that his supervisor committed error or abuse in the exercise of his administrative duties.

Appellant has submitted no such evidence. His own statements make clear how he feels about the supervisor: He does not like the way the supervisor exercises his discretion or the way he communicates. He does not feel the supervisor fosters teamwork. Some of the internal email messages demonstrate disagreements with the supervisor.³ But perceptions that the supervisor might have been monitoring appellant's arrival time by sitting at a conference table located in appellant's area do not demonstrate error or abuse by the supervisor. Appellant has submitted no independent evidence, no witness statements, no favorable decisions from any administrative body, to substantiate that his supervisor committed error or abuse in discharging his supervisory duties. Without such evidence, appellant's claim is reduced to one of personal perception, and a mere perception of harassment is not enough to establish a factual basis for a claim.⁴

¹ *Abe E. Scott*, 45 ECAB 164 (1993).

² *Donald E. Ewals*, 45 ECAB 111 (1993).

³ 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. Mere disagreement or dislike of a supervisor or management action will not be compensable absent evidence of administrative error or abuse. *See Constance I. Galbreath*, 49 ECAB 401 (1998).

⁴ *See Sharon R. Bowman*, 45 ECAB 187 (1993).

The September 24, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
June 4, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member