

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD G. FREIBURGHOUSE and U.S. POSTAL SERVICE,
POST OFFICE, Kansas City, MO

*Docket No. 01-2011; Submitted on the Record;
Issued May 7, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On April 24, 2000 appellant, then a 42-year-old human resources associate, filed a traumatic injury claim asserting that the following happened on April 20, 2000 when the manager of the personnel office called him into her office:

“The manager informed me that once again I did not receive a promotion to a higher level EAS-15 position. She emphasized that I was ‘detrimental’ to her staff and operations, told me I was not qualified for [a] promotion and that my work performance was not acceptable. [Appellant] then said that she selected three other applicants, one of whom had only been in the [p]ersonnel [o]ffice for four months, another for three months and the third who had never been in the [p]ersonnel [o]ffice and was a craft employee.

“I can only imagine that [the manager’s] attitude towards me has to do with my filing of three previous EEO [Equal Employment Opportunity] complaints against her stemming from my previous nonselections and the subsequent on-the-job harassment that I have endured for over 1½ years.

“I tried to reason with [the manager] and point out my exemplary record of sick leave usage (nearly 1500 hours accumulated) and my dedication to the [employing establishment] though it was apparent that she was not interested. She acted as if she did [not] care.

“All of a sudden, I developed severe chest pains with a rapidly beating heart and shortness of breath. I felt extremely dizzy and began to think I was going to pass out. I told [the manager] that I thought I was having a heart attack though she did not respond. Again I stated that I thought I was having a heart attack and

composed myself enough to race out of the office and onto my doctor's office for an evaluation."

Dr. Chris Ottinger, appellant's attending family practitioner, reported that he evaluated appellant on April 20, 2000, at which time appellant was undergoing a severe anxiety reaction related to extreme stress in his workplace. Appellant stopped work the next day. On April 24, 2000 Dr. Ottinger evaluated appellant for severe anxiety, rapid heart rate and significant chest pain, which he found again to be related to work stress.

On April 24, 2000 appellant was also examined by Dr. Alan C. Domian, a licensed psychologist, who reported that appellant was suffering an anxiety reaction due to stress in the workplace.

On May 12, 2000 Dr. Ottinger reported that appellant was suffering from acute adjustment disorder centering around a stressful workplace. He indicated that this condition commenced approximately April 20, 2000.

In a statement dated June 20, 2000, appellant stated that he had been subjected to an ongoing and vicious campaign of harassment since filing his first EEO complaint on January 29, 1999. He stated that he had been harassed, intimidated, belittled, defamed, embarrassed and in various other ways mentally abused. Appellant indicated that the harassment and abuse culminated on April 20, 2000 when he suffered a panic attack.

In a decision dated August 1, 2000, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that he failed to establish that he was injured in the performance of duty.

Appellant requested a review of the written record by an Office hearing representative.

In a decision dated December 4, 2000, the hearing representative affirmed the denial of appellant's claim.

Appellant requested reconsideration and submitted a medical opinion from a Board-certified psychiatrist.

In a decision dated July 20, 2001, the Office reviewed the merits of appellant's claim and denied modification of its prior decision.

The Board finds that the evidence of record is insufficient to establish that appellant sustained an emotional condition while in the performance of duty.

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 Allegations alone are insufficient.² Mere perceptions and feelings of harassment or abuse will not support an award of compensation. The claimant must substantiate his or her allegations with probative and reliable evidence.³

Appellant claims that his illness is the result of an orchestrated pattern of harassment and abuse that he suffered for a prolonged period of time at the employing establishment and which culminated in a panic attack on April 20, 2000. Appellant has submitted no factual evidence, however, to corroborate his allegations. He has offered no witness statement to substantiate an instance of harassment or abuse. Appellant has offered no decision or finding by the EEOC that he was, in fact, harassed or discriminated against.⁴ He has offered no evidence to document error by the employing establishment in any administrative or personnel matter. Appellant's claim rests solely on the unsupported statements that he has submitted to the Office and on the unsubstantiated history he has related to his physicians.

As the Board noted, mere perceptions and feelings of harassment or abuse will not support an award of compensation. Because appellant has submitted no evidence to establish a factual basis for his claim, the evidence of record is insufficient to establish that he sustained an emotional condition while in the performance of duty.⁵

¹ *Abe E. Scott*, 45 ECAB 164 (1993).

² *Joe E. Hendricks*, 43 ECAB 850, 857-58 (1992).

³ *Joel Parker, Sr.*, 43 ECAB 220, 225 (1991); *Ruthie M. Evans*, 41 ECAB 416 (1990).

⁴ If appellant feels that his EEO cases are a private matter, he is not required to make the Office privy to them. A favorable decision by the EEOC, however, that harassment or discrimination did in fact occur is the kind of persuasive factual evidence that would help appellant lay the factual foundation for his claim for compensation.

⁵ When the factual evidence of record fails to substantiate the matters alleged, there is no need to analyze the medical evidence to determine whether the matters alleged caused a diagnosed medical condition. *See generally Norma L. Blank*, 43 ECAB 384 (1992); *Richard J. Dube*, 42 ECAB 916 (1991).

The July 20, 2001, December 4 and August 1, 2000 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
May 7, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member