

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of MICHAEL D. MARSHALL and U.S. POSTAL SERVICE,  
POST OFFICE, Chowchilla, CA

*Docket No. 02-78; Submitted on the Record;  
Issued May 28, 2002*

---

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

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

On June 25, 2001 appellant, then a 42-year-old letter carrier, filed a notice of occupational disease alleging that he suffered from work-related stress because he was told by his supervisor that he needed to submit additional documentation to support his request for leave under the Family Medical Leave Act (FMLA). He further alleged that his supervisor told him his work was "substandard." Appellant stopped work on June 14, 2001.

In support of his claim, appellant submitted a July 5, 2001 report from Dr. Barbara Hughes, a psychologist, indicating that he was treated for anxiety disorder and depression. She relates that during March 2001 appellant's daughter was admitted to a drug rehabilitation program in Livermore, California and that appellant was supposed to attend a three-day weekend seminar for family members scheduled at the facility for June 15 through 17, 2001. Dr. Hughes noted that appellant requested leave but was told that his paperwork was incomplete. She noted that he received forms to complete on June 14, 2000 but felt anxious because he had no time to complete them before he left for the seminar.<sup>1</sup>

In a letter dated July 12, 2001, appellant's supervisor, Alice M. Tate, stated that appellant had been off to see his daughter in rehabilitation before and that there would have been no problem with the leave request if he had brought in proper certification. She stated that the first note appellant brought in did not address appellant's daughter and her rehabilitation at all. Ms. Tate described the second letter turned in by appellant as being on questionable letterhead since the facility was listed in New Mexico but appellant's daughter was supposed to be in

---

<sup>1</sup> Dr. Virgilio A. Reyes, an internist and appellant's treating physician, noted that appellant presented to his office on June 14, 2001 with anxiety being caused by a situation at work where he had requested leave to attend a family weekend workshop.

California. Ms. Tate further noted that when she gave appellant forms to have the doctor fill out on the seminar he became upset and accused her of trying to make things difficult for him.

In a decision dated September 5, 2001, the Office of Workers' Compensation Programs denied compensation on the grounds that appellant's emotional condition was not sustained in the performance of duty.<sup>2</sup>

The Board finds that appellant failed to establish that he sustained an emotional condition in the performance of duty.

In order to establish that an employee sustained an emotional condition in the performance of duty, the employee must submit the following: (1) medical evidence establishing that he or she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the emotional condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the emotional condition.<sup>3</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the employee's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.<sup>4</sup>

Workers' compensation law is 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. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within coverage of the Federal Employees' Compensation Act.<sup>5</sup> On the other hand, there are situations when 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 the employment.<sup>6</sup>

---

<sup>2</sup> The Office prepared a memorandum concerning the preemptory denial of this claim on the issue of performance of duty, noting that since appellant did not allege a compensable factor of employment on the face of the evidence as presented in the record, it was unnecessary for the Office to notify appellant in writing of the specific additional evidence required to establish his claim for compensation. The Board notes that the Office acted in accordance with Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.800.5(c) (April 1993).

<sup>3</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> 5 U.S.C. §§ 8101-8193.

<sup>6</sup> *Joel Parker, Sr.*, 43 ECAB 220 (1991).

As a general rule, an employee's emotional reaction to administrative actions or personnel matters taken by the employing establishment is not covered under the Act as such matters pertain to procedures and requirements of the employer and do not bear a direct relation to the work required of the employee.<sup>7</sup> However, the Board has also held that coverage under the Act would attach if the factual circumstances surrounding the administrative or personnel action established error or abuse by the employing establishment superiors in dealing with the claimant.<sup>8</sup> In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.<sup>9</sup>

A claimant's own feeling or perception 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. This recognizes that a supervisor in general must be allowed to perform his or her duty and that, in the performance of such duties, employees will at times dislike actions taken. However, mere disagreement or dislike of a supervisor's management style or actions taken by the supervisor will not be compensable without a showing through supporting evidence that the incidents or actions complained of were unreasonable.<sup>10</sup>

In this case, appellant alleges that his anxiety disorder began when his supervisor requested that he have certain forms completed by a physician at the drug rehabilitation center before she would permit him to use leave under the FMLA. The handling of matters pertaining to leave is an administrative function of the employing establishment and is within its discretion so long as there is no evidence of error or abuse. The Board finds no error or abuse by appellant's supervisor in requiring that appellant complete FMLA forms. Moreover, she reasonably questioned why the physician signing the first form provided to her was from New Mexico and appellant's daughter was supposed to be in a drug rehabilitation center in New Mexico. Thus, the Board finds that appellant has failed to allege a compensable factor of employment with respect to his request for FMLA leave.<sup>11</sup>

Furthermore, the Board notes that appellant's reaction to his supervisor's criticism of his work is not a compensable factor of employment since it also involves a personnel matter or an administrative function of the employing establishment and there is no evidence to establish error or abuse by appellant's supervisor in the criticisms made with respect to appellant's work. The Board has held that reactions to assessments of performance are self-generated and not covered by the Act.<sup>12</sup> Because appellant has not alleged a compensable factor of employment, it

---

<sup>7</sup> See *Michael L. Malone*, 46 ECAB 957 (1995); *Gregory N. Waite*, 46 ECAB 662 (1995).

<sup>8</sup> See *Elizabeth Pinero*, 46 ECAB 123 (1994).

<sup>9</sup> *Ruth S. Johnson*, 46 ECAB 237 (1994).

<sup>10</sup> *Constance I. Galbreath*, 49 ECAB 401 (1998).

<sup>11</sup> *Anthony A. Zarcone*, 44 ECAB 751 (1993).

<sup>12</sup> *Michael Thomas Plante*, 44 ECAB 510 (1993); *Effie O. Morris*, 44 ECAB 470 (1993).

is unnecessary for the Board to address the medical evidence.<sup>13</sup> The Board, therefore, finds that the Office properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated September 5, 2001 is hereby affirmed.

Dated, Washington, DC  
May 28, 2002

Alec J. Koromilas  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

---

<sup>13</sup> See *Margaret S. Krzycki*, 43 ECAB 496 (1992).