

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD L. HARRIS and U.S. POSTAL SERVICE,
BRENTWOOD MAIL PROCESSING & DISTRIBUTION CENTER,
Washington, DC

*Docket No. 02-152; Submitted on the Record;
Issued May 2, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
DAVID S. GERSON

The issue is whether appellant has established that he sustained an emotional condition in the performance of duty on or before December 15, 2000 as alleged.

On December 19, 2000 appellant, then a 45-year-old custodian, filed a claim for "stress," which he attributed to alleged death threats made against him by coworkers for his serving as an informant. Appellant stated that he was threatened on December 15, 2000 at 11:00 a.m. at the "main employee entrance almost on the platform." Appellant noted that there were no witnesses to the threats.¹

In December 20, 2000 form reports, Dr. Daryl Dillman, an attending psychiatrist, diagnosed "adjustment disorder with depressed/anxious mood." He stated that appellant had "an acute condition that require[d] medication and therapy, which will be weekly for four weeks. Appellant will initially be off one week," beginning on December 14, 2000. Dr. Dillman noted that appellant would likely be disabled for work until the end of December 2001 due to "poor energy, motivation, concentration and anxiety."²

In letters dated January 16, 2001, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his emotional condition claim. The Office requested that appellant provide details regarding who threatened him, the nature of the threats, if appellant reported the threats to any employing establishment officials. The Office also requested a detailed report from his attending physician, including a rationalized explanation of any causal relationship between the alleged work factors and the

¹ In a January 5, 2001 letter, the employing establishment controverted appellant's claim, asserting that there was insufficient information to support or deny his allegations regarding serving as an informant and any threats against him.

² Appellant submitted December 20, 2000 and January 23, 2001 appointment slips.

claimed emotional condition. The Office afforded appellant 30 days in which to submit the requested evidence, advising him that failure to do so could result in the denial of his claim.

In a January 23, 2001 report, Dr. Dillman noted that appellant had “received a death threat at work where he had been an informant for the [employing establishment.] He felt anxious as well as irritable. Sleep, energy, appetite, motivation and concentration were decreased.” Dr. Dillman checked a box “yes” indicating his support for causal relationship, explaining that appellant “did well until he received a death threat at work because he was acting as an informant for the [employing establishment].” Dr. Dillman noted that appellant was compliant with weekly group therapy and medication. He opined that appellant was able to return to full duty, “but only if he is assigned to a different post office.”

By decision dated February 27, 2001, the Office denied appellant’s claim on the grounds that he did not submit sufficient evidence to establish fact of injury. The Office found that appellant did not submit sufficient factual information, as requested by January 16, 2001 letters from the Office, regarding the nature of the alleged threats against him. The Office further found that appellant submitted insufficient medical evidence to establish that he sustained an emotional condition.

The Board finds that appellant has not established that he sustained an emotional condition in the performance of duty as alleged.

In an emotional condition claim, where disability results from an employee’s emotional reaction to his or her assigned work duties, or requirements of the employment, the disability is generally regarded as arising out of and in the course of employment and falls within the Federal Employees’ Compensation Act’s coverage.³ As part of its adjudicatory function, the Office must make findings of fact as to which working factors are deemed compensable and are to be considered by a physician when providing an opinion on causal relationship, and which working conditions are noncompensable and may not be considered.⁴ Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.⁵ To prevail, a claimant must also submit rationalized medical opinion evidence establishing a causal relationship between the claimed emotional condition and the established, compensable employment factors.⁶

In this case, appellant attributed his claimed emotional condition to a December 15, 2000 death threat by unspecified coworkers, allegedly in retaliation for serving as an informant to

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *See Barbara Bush*, 38 ECAB 710 (1987).

⁵ *Ruthie M. Evans*, 41 ECAB 416 (1990).

⁶ *Bonnie Goodman*, 50 ECAB 139 (1998).

unspecified employing establishment officials. However, appellant did not submit any factual evidence corroborating his account of the December 15, 2000 death threat. He did not identify the person or persons who threatened him, specify who had assigned him to work as an informant, what his specially assigned duties were, or to whom he was to report. Without some corroboration of appellant's account of events, he cannot establish a compensable factor of employment.

The Board notes that the lack of factual corroboration regarding appellant's status as an informant, the duties of that position, and identity of the party or parties who made the threats, cannot be overcome by the consistent support for causal relationship in Dr. Dillman's reports. While Dr. Dillman opined that appellant's adjustment disorder with depressed/anxious mood was due to receiving a death threat because he was an informant, appellant has not provided corroboration of his status as an informant or that he was threatened. As appellant has not established any compensable work factors, he has not met his burden of proof.⁷

The decision of the Office of Workers' Compensation Programs dated February 27, 2001 is hereby affirmed.

Dated, Washington, DC
May 2, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

⁷ On appeal, appellant explained that he did not receive an updated report from Dr. Dillman until February 27, 2001, the date the Office issued its decision. Appellant submitted a copy of Dr. Dillman's February 27, 2001 report accompanying his request for appeal. However, the Board may not consider evidence for the first time on appeal that was not before the Office at the time that it issued its final decision, in this case, February 27, 2001. As the Office has not yet considered Dr. Dillman's February 27, 2001 report, the Board may not do so now for the first time on appeal. 20 C.F.R. § 501.2(c).