

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DELBERT M. TRAIL and U.S. POSTAL SERVICE,
POST OFFICE, Roanoke, VA

*Docket No. 03-699; Submitted on the Record;
Issued April 9, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained an emotional condition in the performance of duty.

On November 9, 2001 appellant, then a 52-year-old letter carrier, filed a claim alleging that he sustained an emotional condition due to various incidents and conditions at work. Appellant stopped work on November 7, 2001.¹ Appellant claimed that he sustained stress because he was required on about three occasions during the summer and fall of 2001 to work overtime on unfamiliar routes. He alleged that the delivery routes were changed in September 2001 and that when he returned from vacation in October 2001 he had mail stacked up. Appellant claimed that the mail volume changed to the point that he could not handle the time pressure. He alleged that he experienced stress due to dealing with months of chronic pain associated with two work injuries, a mid back strain sustained in July 1997 and mid back and right neck injuries sustained in December 1998. He asserted that after he was informed that an additional one hour of mounted delivery would be added to his route. He anticipated that this extra delivery work would reinjure his back and neck.

By decision dated March 11, 2002, the Office of Workers' Compensation Programs denied appellant's emotional condition claim on the grounds that he did not establish any compensable employment factors. By decision dated and finalized October 21, 2002, an Office hearing representative affirmed the Office's March 11, 2002 decision.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an emotional condition in the performance of duty.

¹ Appellant indicated that he suffered from "constant anxiety, dizziness, indigestion, insomnia and uncontrolled stress."

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 duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.² 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.³

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by employment factors.⁴ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁵

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁶ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁷

In the present case, appellant alleged that he sustained an emotional condition as a result of a number of employment incidents and conditions. The Office denied appellant's claim on the grounds that he did not establish any compensable employment factors. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

Appellant alleged that he had to work overtime on unfamiliar routes and that changes in his delivery route in September 2001 caused it to be overburdened and subjected him to unreasonable time pressure in delivering the mail. He claimed that he did not receive adequate

² 5 U.S.C. §§ 8101-8193.

³ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁵ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

⁶ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁷ *Id.*

support to complete his route. The Board has held that in certain circumstances emotional reactions to situations in which an employee is trying to meet his position requirements are compensable.⁸ However, appellant has not provided sufficient factual evidence to establish the substance of his claims. He did not submit evidence showing that he was required to work overtime. Nor did he show that his mail route was overburdened or that he was not provided with adequate resources to complete his mail route.

Moreover, the record contains evidence which shows that appellant's mail route was not overburdened and that he was provided with adequate assistance to complete it. Appellant's supervisor, Edward Wood, indicated that in February and March 2001 the mail on appellant's route was delayed and he was given assistance several times a week. Mr. Wood stated that, in response to appellant's concerns, his delivery route was inspected and it was found that the route was not overburdened but that appellant engaged in several practices which prevented him from keeping his route current. He stated that changes were made to appellant's route in the summer of 2001 which made it safer and more compact and that appellant's requests for certain changes were honored in order to accommodate his back problems. Mr. Wood noted that appellant was allowed a reasonable amount of time to learn the new route. He indicated that there was some backup of mail after appellant returned from vacation, which was mostly created by appellant's work habits, but that he was given assistance to address it. Mr. Wood stated that, after the route was cleaned up, appellant was advised to keep his route current, but after several weeks it was necessary to provide assistance again. He stated that appellant stopped work after he was told that, in accordance with usual practice, his route would be inspected.

Appellant suggested that the employing establishment acted improperly in handling his workload. The Board finds that this allegation relates to an administrative or personnel matter, unrelated to the employee's regular or specially assigned work duties and does not fall within the coverage of the Act.⁹ Although the assignment of work duties is generally related to the employment, it is an administrative function of the employer and not a duty of the employee.¹⁰ However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.¹¹ Appellant has not shown that the employing establishment committed error or abuse in connection with its handling of his workload. Thus, appellant has not established a compensable employment factor under the Act with respect to administrative matters.

Appellant also claimed that he sustained stress due to employment-related back and neck injuries. Although the Board has held that an emotional condition related to chronic pain and

⁸ See *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

⁹ See *Janet I. Jones*, 47 ECAB 345, 347 (1996), *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

¹⁰ *Id.*

¹¹ See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

limitations resulting from an employment injury may be covered under the Act,¹² appellant did not sufficiently articulate his argument or submit adequate evidence in support of his argument. Appellant indicated that he feared how his work duties would effect his physical condition in the future, but it is well established that the possibility of future injury constitutes no basis for the payment of compensation.¹³

For the foregoing reasons, appellant has not established any compensable employment factors under the Act and, therefore, has not met his burden of proof in establishing that he sustained an emotional condition in the performance of duty.¹⁴

The October 21 and March 11, 2002 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
April 9, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

¹² See *Arnold A. Alley*, 44 ECAB 912, 921-22 (1993); *Charles J. Jenkins*, 40 ECAB 362, 367 (1988).

¹³ *Gaeten F. Valenza*, 39 ECAB 1349, 1356 (1988).

¹⁴ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; see *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).