

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARL W. GREER and DEPARTMENT OF THE ARMY,
CORPUS CHRISTI ARMY DEPOT, Corpus Christi, TX

*Docket No. 02-1290; Submitted on the Record;
Issued February 19, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

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

On September 14, 2000 appellant, then a 57-year-old electronics integrated systems mechanic, filed a claim for an occupational disease for an emotional condition that he attributed to incidents that began with his reporting a contractor's forklift accident on August 24, 2000. Appellant was off work until August 29, 2000. Appellant alleged that a coworker asked him why he had gotten another coworker's son fired; the coworker, whose son was involved in the forklift accident, accused him of getting his son fired; and another coworker said he did a good job by getting a contractor fired. Appellant stated that on August 30, 2000, on his way to work, a pickup truck stopped so close to him at a stop sign that he could have turned around and touched it and that, as appellant parked, he saw two contractors get out of the truck laughing. Appellant stated that on August 31, 2000 he was reassigned to another hangar and had to move his toolbox in front of other employees and that a coworker said that there was a guy swinging a machete outside looking for him.

Appellant submitted a September 12, 2000 medical report from Dr. Mario Quintanilla, a Board-certified psychiatrist, stating that, due to incidents at his work site, appellant suffered from severe anguish and stress and that he was totally disabled. The employing establishment submitted a report of its investigation of the incidents cited in appellant's claim, which was accompanied by interviews with coworkers and supervisors.

By decision dated October 31, 2000, the Office of Workers' Compensation Programs found that appellant had not identified any compensable factors of employment.

By note received November 9, 2000, appellant requested a hearing, which was held on July 23, 2001. Appellant testified that he was distressed because coworkers blamed him for getting a contract employee fired and that this resulted in guilt and fear, that he was required to report incidents such as the forklift accident on August 24, 2000 and that the employing

establishment left him in a hostile environment. Appellant submitted a February 22, 2001 report from Dr. Quintanilla, stating that appellant was under his care for “major depression disorder and post[-]traumatic stress disorder,” that appellant “expressed to me that he has recently suffered severe stress and anxiety due to an incident that happened with his supervisor,” and that appellant was unable to perform his regular job duties due to his mental illness.

By decision dated October 17, 2001, an Office hearing representative accepted that appellant was questioned by his coworkers about his involvement in the firing of a contractor, but found that appellant’s reaction to these incidents was not covered under the Federal Employees’ Compensation Act.

By note received January 29, 2002, appellant requested reconsideration and submitted a copy of his position description and a statement from a coworker that, before the investigation, appellant’s supervisor talked to employees about threats to appellant and getting a contractor fired.

By decision dated March 4, 2002, the Office found the additional evidence was not sufficient to warrant modification of its prior decisions.

The Board finds that appellant has failed to implicate a compensable factor of employment.

The sworn statements from appellant’s coworkers, obtained by an employing establishment investigator, confirmed that one coworker said to appellant that he was proud of him for getting someone fired, that another coworker asked him if he got someone fired, that appellant talked to the coworker whose son was fired and denied his involvement in the firing and that another coworker told him, while standing near a door, that he had “better watch out, there might be someone out here.”

Although the Board has recognized the compensability of verbal altercations or verbal abuse in certain circumstances, this does not imply that every statement uttered in the workplace will give rise to coverage under the Act.¹ Appellant has not shown how the comments by his coworkers rose to the level of verbal abuse or otherwise fall within coverage of the Act.²

Appellant has not substantiated that the other incident he cited -- the pickup truck coming close to his motorcycle at a stop sign -- occurred as alleged. Even if it did, appellant has not established that this incident had any relationship to his employment. Even if contractors later got out of the truck laughing, that would not establish a causal connection to appellant’s employment or his allegations.

¹ *Leroy Thomas, III*, 46 ECAB 946 (1995); *Mary A. Sisneros*, 46 ECAB 155 (1994).

² *Alfred Arts*, 45 ECAB 530 (1994).

The March 4, 2002 and October 17, 2001 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
February 19, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member