

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of WILLIAM H. DONALDSON and U.S. POSTAL SERVICE,  
POST OFFICE, Akron, OH

*Docket No. 02-2102; Submitted on the Record;  
Issued February 19, 2003*

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DECISION and ORDER

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

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

On August 16, 2000 appellant then a 44-year-old manager for the employing establishment filed a claim with the Office of Workers' Compensation Programs, alleging that he suffered stress and depression related to employment factors.<sup>1</sup> He took medical leave beginning July 3, 2000 and has not returned to work.

Appellant submitted medical evidence and detailed factual statements dated September 30, November 9 and December 13, 2000 in support of his emotional condition claim.

Appellant alleged that before he developed a work-related emotional condition, he had worked over 20 years for the employing establishment, had received favorable recognition, merit ratings and continual promotions to various management positions. He alleged, however, that he developed a stress condition after Jordan Small, his district manager arrived and his stress level increased as a direct result of the management style and demands of Mr. Small.

Appellant outlined specific incidents, which allegedly occurred in the workplace and which he asserted caused his emotional condition. He indicated that on May 1, 2000 Mr. Small informed him that allegations had been made against him, concerning his conduct with a female postmaster in a government car and regarding the validity of hours being transferred to his department. Appellant alleged that he responded to the allegations and that, later during a lunch on May 24, 2000, Mr. Small informed appellant that there would be no inquiry into the matter. He alleged, however, that in early June 2000 Mr. Small informed him that the inquiry would be reopened because something else had surfaced regarding the previous allegations and

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<sup>1</sup> The Board notes that appellant initially filed a traumatic injury claim asserting stress and depression; however, the Office converted the CA-1 to an occupational disease claim as he was claiming an emotional condition.

additionally, that there had been some concern regarding telephone calls. Appellant alleged that he was subsequently summoned to a meeting held June 30, 2000, where he was notified that an investigation had ensued and that for the duration of the investigation he would be detailed to a lower level postmaster position, with the same pay in Wadsworth, Ohio. Appellant indicated that the postmaster's position in Wadsworth was 20 minutes further than his original office, which would cause him to be on the road longer, with increased gas costs and wear and tear on his vehicle. He further asserted that he felt he had been singled out and that there was a conspiracy against him because Mr. Small had transferred him to work under the supervisor that initially brought the allegations against him. Appellant asserted that his credibility had been destroyed as a result and that he could never gain it back.

Appellant also alleged that while on medical leave of absence, the employing establishment continually contacted and scrutinized him with telephone calls and letters regarding his being out on sick leave, which he alleged caused him stress and was a deliberate attempt to cause him additional stress. He alleged that Mr. Small denied his leave slip and requested a call by August 16, 2000 to discuss extended leave, which caused him anxiety and stress.

Appellant further alleged that with regard to the investigation, Mr. Small said that he would be forwarded the results when completed and then said that appellant would have to make an appointment with him to discuss it. He indicated that this process was delayed and that he was frustrated over being told one thing but having something else occur. Appellant alleged that he was informed on September 25, 2000 that the investigation was over and that the results would be made available to him upon request; however, he received nothing.

Appellant asserted that, on or about November 7, 2000, he received a notice of proposed reduction-in-grade, which also indicated that to date there had been no action taken based on the investigation, which made him feel misled. He also alleged that on November 9, 2000 Mr. Small gave him an "unacceptable" rating, which meant he would not receive a merit raise. Appellant alleged that he thereafter requested that the proposed reduction-in-grade be reduced to a letter of warning; however, a decision had not been reached. He indicated that he also requested two copies of the investigation by mail; however, he still had not received a copy of the investigation until approximately November 20, 2000. Appellant asserted that he had to file an Equal Employment Opportunity complaint for redress.

The employing establishment challenged appellant's claim and maintained that he was not injured in the performance of duty. The employing establishment indicated that actions taken against appellant were initiated as a result of allegations received by upper management regarding appellant's conduct, however, prior to the investigation, appellant had no performance issues and had not indicated any concerns to management regarding his ability to perform his job. The employing establishment stated that, in order to ensure a fair investigation, appellant was advised on June 30, 2000 that he would be temporarily reassigned to a postmaster position in Wadsworth, Ohio, pending the results of the investigation. The employing establishment further stated that the action was not punitive in nature as there was no loss in pay or schedule changes and that appellant was not singled out, as other employees under investigation have also been reassigned. The employing establishment concluded that any humiliation appellant might have felt would have been self-induced.

By decision dated January 31, 2001, the Office denied the emotional condition claim. In a letter dated February 24, 2001, appellant requested an oral hearing, which was held on August 30, 2001. During the hearing he reiterated his allegations of the emotional condition claim and submitted additional evidence.

By decision dated June 10, 2002, an Office hearing representative found that the evidence of record failed to establish that appellant sustained an emotional condition in the performance of duty and affirmed the prior decision. The Office hearing representative found that the allegations set forth by appellant including his being detailed to another position while under investigation were administrative actions and did not constitute compensable factors of employment.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that he sustained an emotional condition while in the performance of duty.

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 illness has some connection with the employment, but nevertheless does not come within the coverage of the Federal Employees' Compensation Act. Where the disability results from an employee's emotional reaction to his or her regular or specially assigned work duties or requirements of the employment, the disability comes within the coverage of the Act. On the other hand, where disability results from such factors as an employee's emotional reaction to employment matters unrelated to the employee's regular or specially assigned work duties or requirements of the employment, the disability is generally regarded as not arising out of and in the course of employment and does not fall within the scope of coverage of the Act.<sup>2</sup>

Perceptions and feelings alone are not compensable. 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 factors of his federal employment.<sup>3</sup> To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>4</sup>

The Board must, thus, initially review whether the alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

With respect to appellant's allegations that the employing establishment unfairly investigated him in response to allegations made by upper management, improperly transferred him, issued an unfair performance evaluation, denied leave slips, continually questioned his sick

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<sup>2</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>3</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

<sup>4</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

leave status and unfairly issued a notice of reduction-in-grade, the Board finds that these allegations relate to administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties and do not fall within the coverage of the Act.<sup>5</sup> Although the handling of disciplinary actions, evaluations and leave requests, the assignment of work duties and the monitoring of activities at work are generally related to the employment, they are administrative functions of the employer and not duties of the employee.<sup>6</sup> Similarly, investigations, which are an administrative function of the employing establishment, that do not involve an employee's regular or specially assigned employment duties, are not considered to be employment factors.<sup>7</sup> 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.<sup>8</sup> Appellant has provided insufficient evidence to support his allegations that the employing establishment erred or acted abusively in any of the named administrative actions and has not established a compensable employment factor under the Act with respect to these administrative matters.

Further, the Board notes that, while appellant asserted that Mr. Small had improperly transferred him to work under the supervisor that initially brought the allegations against him, he provided no evidence to substantiate this claim, nor did he provide evidence that such action was injurious to him in any way.

Regarding appellant's assertion that the management style and demands of Mr. Small caused him stress, the Board has held that an employee's dissatisfaction with perceived poor management constitutes frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable under the Act.<sup>9</sup>

For the foregoing reasons, appellant has not established any compensable employment factors under the Act and, therefore, has not met his burden of proof to establish that he sustained an emotional condition in the performance of duty. Consequently, as appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record.<sup>10</sup>

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<sup>5</sup> 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).

<sup>6</sup> *Id.*

<sup>7</sup> *Jimmy B. Copeland*, 43 ECAB 339, 345 (1991).

<sup>8</sup> See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

<sup>9</sup> *Michael Thomas Plante*, 44 ECAB 510, 516 (1993).

<sup>10</sup> See *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

The June 10, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
February 19, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member