

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES A. BOETTO and U.S. POSTAL SERVICE,  
POST OFFICE, Phoenix, AZ

*Docket No. 02-2314; Submitted on the Record;  
Issued February 3, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he developed an emotional condition due to factors of his federal employment.

Appellant, a 45-year-old supervisor, filed a notice of occupational disease on March 3, 2001, alleging that pressure to perform at a high level resulted in panic attacks and depression. By decision dated April 12, 2001, the Office of Workers' Compensation Programs denied appellant's claim finding that he failed to substantiate a compensable factor of employment.

Appellant requested reconsideration by letter dated March 26, 2002 and submitted additional factual information. By decision dated June 27, 2002, the Office denied appellant's claim finding that he failed to meet his burden of proof.

The Board finds that appellant has failed to meet his burden of proof in establishing that he developed an emotional condition due to factors of his federal employment.

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 concept 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 is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment to hold a particular position.<sup>1</sup>

Appellant attributed his emotional condition to specific assigned duties. He stated that he was asked to do in three months what the regular manager could not get done at the Rio Salado

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

Station. The employing establishment stated that appellant was not tasked to achieve any rating and that he took it upon himself to set expectations of moving the Rio Salado Station into a good station. Appellant stated that he could not sleep at night if he did not answer all the email he received during that day. The employing establishment stated that appellant was not required to answer his email in a specific time period.

Appellant stated that the Y2K scare coincided with his detail as station manager at the Rio Salado Station. He stated that the things he had to do regarding Y2K while running the station added stress to the job. The employing establishment stated that Y2K procedures dealt with computers and that appellant's job did not consist of Y2K measures.

Appellant stated that, half way through his detail at Rio Salado Station, Momi Lee, his supervisor, informed him that he had to put together a package of projects and email messages for the manager, Carla West. Ms. Lee stated that she did not assign appellant to put a package together. She stated that appellant put a package together in an attempt to perform his job at a high level.

Appellant has not submitted any evidence that he was required to perform the duties alleged to which he attributed his emotional condition. The employing establishment denied that appellant was tasked with elevating the Rio Salado Station, that he had to respond to email within a day's time, that he had to package the memoranda issued while in charge of this station, or that he had additional duties as a result of the affects of the change of the millennium on the employing establishment's computers. As the employing establishment denied that these aspects of appellant's work were part of his regular or specially assigned duties and as appellant has submitted no evidence substantiating that he was required to perform these duties, he has not established that these aspects of his work were compensable factors of employment.

Appellant stated that he returned to Indian School Station after three months absence and found that work had been saved for him including lots of grievances filed against the acting supervisor in appellant's absence. The employing establishment denied that work was saved for him. Appellant stated that he requested help from station manager Athena Dorsey, as he felt that he could not do all the work himself. The employing establishment stated:

“[Appellant] exhibited no problems in performing his supervisor duties. [Appellant] set high expectations of himself and was never satisfied with the work of his peers or of other supervisors. [Appellant] would take it upon himself to do other assignments that were not given to him. He would take it upon himself to do the work of other because he did not like the way the other supervisors would do something. He always said it was easier to do it himself.”

Appellant stated that Ms. Dorsey was not involved with helping him run the station due to difficulties with her goldfish. The employing establishment stated that appellant was never assigned the duties of station manager while Ms. Dorsey was present and that he was not assigned to complete the station manager's duties while Ms. Dorsey was out of the office.

Appellant's supervisor, Ms. Lee, responded on February 9, 2001 and denied that appellant was pressured to perform at a high level. Ms. Lee stated that appellant applied to be

placed in a higher level detail and that he was doing an excellent job managing the Indian School Station. She asserted that Indian School Station was the easiest station to run and that appellant inaccurately perceived that he was doing all the work and that the supervisors and managers were not carrying their portion of the load. Ms. Lee stated that there were no performance standards for supervisors. She alleged that appellant set high expectations for himself, and that his stress claim was based on his failure to reach his own goals.

Appellant solicited witness statements from those he supervised at Indian School. Appellant wrote the statement and requested signatures. However, appellant did not submit any signatures from employees or coworkers. Appellant has not submitted evidence establishing that his regular or specially assigned duties entailed completing work saved for him, nor the duties of Ms. Dorsey while at the Indian School Station. Appellant has not substantiated the factors of employment alleged.

Appellant stated that he returned to work at the Cactus Station on March 19, 2001 following his September 2000 work stoppage. He stated that two supervisors “sat down” and as a result he ran the carriers in his zone as well as another zone and generated most of the reports. Appellant stated for about two months he was running two and three zones doing all the reports, timekeeping and leave as “this is the only way I know how to work.” Appellant also stated that he had a dispute with a supervisor, Mike Sarter, that resulted in raised voices on both sides. Appellant began to cry uncontrollably. As a result JoAnn Whelan, his supervisor at this station, changed his job to restrict it to timekeeping and other reports. Appellant stated that there were not enough supervisors to do the job. The employing establishment denied this allegation. Ms. Whelan denied that appellant ran more than one zone and stated that initially his duties were split equally among the supervisors and that appellant suggested that he make timekeeping corrections. According to Ms. Whelan, appellant did not supervise more than one zone. She stated, “[Appellant] was tasked with taking sick calls and recording the information, some timekeeping duties and inputting DSIS information from March 24<sup>th</sup> to the present. These duties were given to him because he wanted the early shift and the supervising duties and zone supervisory duties were tasked to other supervisors.” She stated that at no time did appellant have more work than the other supervisors and that in fact appellant had a smaller area of responsibility. Appellant has not submitted any evidence to substantiate the allegation that he did more work than other supervisors.

Appellant stated that his doctor did not want him to supervise employees, but that the employing establishment returned him to a new location, Cactus Station, running the carriers. Appellant’s physician, Dr. Alan R. Holmes, a Board-certified family practitioner, completed a report on January 8, 2001 and stated that appellant could return to modified work on December 26, 2000 and that as most of his problem was the supervisory role that he was involved in that “a return to work in a support service role would be beneficial.” Work outside of a doctor’s restrictions can be a compensable factor of employment if such activity is substantiated by the record.<sup>2</sup>

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<sup>2</sup> *Diane C. Bernard*, 45 ECAB 223, 227 (1993).

The employing establishment stated that appellant wanted a support services job and that when he was unable to obtain the position he desired, he requested that his physician limit him to such a position. The employing establishment concluded that appellant's restrictions were not violated as Ms. Whelan reduced his workload and he performed timekeeping duties. The Board notes that the record indicates that appellant initially performed some supervisory duties and that some later point Ms. Whelan reduced appellant's workload to include timekeeping duties. However, as Dr. Holmes did not clearly state that appellant was not to return to a supervisory capacity, appellant has not established that the employing establishment exceeded his work restrictions in his return to work.

Appellant stated that when he informed Ms. Whelan of difficulties at her station she "exploded and jumped all over the supervisors." Ms. Whelan denied exploding or yelling at appellant, but stated that she informed him that it was her job to monitor the work of other supervisors. As appellant has not substantiated that he was subjected to verbal abuse by his supervisor, he has failed to establish this compensable factor of employment.

Appellant, a supervisor, attributed his emotional condition to pressure to perform at a high level. He attributed his condition to the added pressure of being a station manager at Rio Salado Station as well as the expectations he had for himself and those higher level postal managers had for him. Appellant stated that if he had not done his job, he would have been threatened with corrective action including a letter of warning. The Board has held that the pressure of attempting to fulfill job requirements can be a compensable factor of employment.<sup>3</sup> However, the Board has generally held that the pressure of the job requirements must be supported by sufficient evidence.<sup>4</sup> As appellant has not substantiated that he experienced pressure as a result of his own job requirements, he has failed to establish a compensable factor of employment and the Office properly denied his claim.

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<sup>3</sup> *Ernest St. Pierre*, 51 ECAB 623, 625 (2000).

<sup>4</sup> *Richard H. Ruth*, 49 ECAB 503, 508 (1998).

The June 27, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
February 3, 2003

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member