

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DALTON L. JOHNSON and U.S. POSTAL SERVICE,
RAINBOW STATION, Indianapolis, IN

*Docket No. 03-196; Submitted on the Record;
Issued May 5, 2003*

DECISION and ORDER

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

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

On May 31, 2002 appellant, then a 38-year-old city carrier, filed an occupational disease claim alleging that factors of employment caused depression, stress and chronic fatigue. In an attached statement, he alleged that stress arose when he was asked to work an unfamiliar route. He alleged that this would cause him anxiety. Appellant submitted a May 31, 2002 report from Dr. Michael S. LaRosa, a Board-certified family practitioner, who diagnosed clinical depression exacerbated by acute work stress and provided restrictions to appellant's work activities.¹

By letter dated June 20, 2002, the Office of Workers' Compensation Programs informed appellant of the type evidence needed to support his claim. In a second letter dated June 20, 2002, the Office requested that the employing establishment provide a response to appellant's allegations.

In a statement received by the Office on July 10, 2002, William C. Jamerson, an employing establishment manager, advised that, if there was not enough work on a carrier's assigned route, carriers were required to case and/or carry mail on another route and that appellant was trained to be a carrier on any route. Mr. Jamerson further stated that delivery routes changed for many reasons and daily mail volumes dictated how long a route would be on a particular day, with route adjustments made when warranted by management.

By letter dated July 19, 2002, appellant advised that he had only worked other routes for a total of 20 hours in the last "couple of years," 30 minutes at a time.

¹ In the May 31, 2002 report, Dr. LaRosa stated that appellant had a limited ability to adapt to new surroundings and should work his route only, should deliver case mail only, should not work on holidays or his days off and should not work overtime.

The record also contains a limited-duty assignment, in accordance with the restrictions provided by Dr. LaRosa, that was effective from May 31 through July 2, 2002, pending the outcome of the instant claim. By letter dated August 30, 2002, appellant was informed that this assignment had expired.

By decision dated October 17, 2002, the Office denied appellant's claim on the grounds that he failed to establish a compensable factor of employment and therefore failed to establish that he sustained an injury in the performance of duty. The instant appeal follows.

The Board finds that appellant failed to meet his burden of proof to establish that he sustained an injury in the performance of duty.

To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.²

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,³ the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under the Federal Employees' Compensation Act.⁴ There are situations where an injury or illness has some connection with the employment but nevertheless does not come within coverage under the Act.⁵ When an employee experiences emotional stress in carrying out his employment duties, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of his work.⁶

In the instant case, appellant alleged stress due to being asked to work an unfamiliar postal route, stating it would cause him to experience anxiety. The Board has noted that the assignment of work duties, while generally related to the employment, it is an administrative function of the employer and not a duty of the employee.⁷ The Board has found, however, 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

² *Donna Faye Cardwell*, 41 ECAB 730 (1990).

³ 28 ECAB 125 (1976).

⁴ 5 U.S.C. §§ 8101-8193.

⁵ See *Anthony A. Zarcone*, 44 ECAB 751, 754-55 (1993).

⁶ *Lillian Cutler*, *supra* note 3.

⁷ *Id.*

the employing establishment acted reasonably.⁸ The evidence of record does not establish error or abuse on the part of the employing establishment in assigning appellant's work duties or making a request that he work another postal route.

The Board finds that appellant's fear of possible anxiety is self-generated and not a compensable factor of employment.⁹ Appellant noted that he had only worked other routes for a total of 20 hours in the last "couple of years," 30 minutes at a time. Furthermore, disability is not covered where it results from such factors as frustration from not being permitted to work in a particular environment or to hold a particular position.¹⁰ The Board finds that, as these allegations relate to administrative or personnel matters unrelated to the employee's regular or specially assigned work duties, and he has submitted no evidence that the employing establishment acted in an abusive manner, they do not fall within the coverage of the Act.¹¹ Appellant has thus not established a compensable employment factor under the Act. The Board finds that, as appellant has not established a compensable employment factor, he has not met his burden of proof in establishing that he sustained an emotional condition in the performance of duty as alleged.¹²

The decision of the Office of Workers' Compensation Programs dated October 17, 2002 is hereby affirmed.

Dated, Washington, DC
May 5, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁸ See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

⁹ See *Joseph G. Cutrufello*, 46 ECAB 285 (1994).

¹⁰ *Clara T. Norga*, 46 ECAB 473 (1995).

¹¹ 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).

¹² As appellant failed to establish a compensable employment factor, the Board need not address the medical evidence of record; see *Margaret S. Krzycki*, 43 ECAB 496 (1992).