

**United States Department of Labor
Employees' Compensation Appeals Board**

MARK J. GAUS, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Atlantic, PA, Employer**

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**Docket No. 04-346
Issued: April 15, 2004**

Appearances:
Mark J. Gaus, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On November 24, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' decision dated September 15, 2003 denying his emotional condition claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

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

FACTUAL HISTORY

On April 14, 2003 appellant, then a 49-year-old postmaster, filed a claim for occupational disease alleging that factors of his federal employment caused an emotional condition. He attributed his emotional condition to "sitting all day with nothing to do" and stated that boredom was driving him crazy. Appellant advised that he first realized his condition was caused or

aggravated by his employment on April 14, 2003. Appellant stopped work on April 11, 2003 and has not returned.

In an attached statement, appellant noted that work was okay when he was learning new things. When that ended, he started busying himself with things to do and would come home feeling worthless and with no sense of accomplishment. He stated that a 12-month tour must be completed before he would be able to transfer to another location.

In an April 23, 2003 letter, Brian H. Meeder, M.Ed., a professional counselor, advised that appellant had been seen in his office on April 11, 2003 and diagnosed a major depressive episode, severe without psychosis and a moderate risk for suicide. He noted that appellant had previously been seen on January 17, 2001 and, after a few sessions, needed no further treatment. In a July 3, 2003 attending physician report (Form CA-20), Mr. Meeder diagnosed severe depression and acute and chronic post-traumatic stress disorder (PTSD) which arose out of appellant's employment. He noted that "Atlantic too slow – led to lack of self-worth and too much time to think which can be dramatic for this PTSD sufferer." In a June 27, 2003 CA-7 report, Mr. Meeder reiterated appellant's lack of being able to stay busy enough to keep negative and depressive thoughts away and his lack of ability to sustain a sense of self-worth. In a May 7, 2003 letter, the employing establishment controverted the claim.

By letter dated July 21, 2003, the Office advised appellant that it needed a specific description of the incidents to which he attributed his condition and a comprehensive medical report including the doctor's explanation regarding how employment incidents contributed to his condition.

On August 12, 2003 appellant noted that, prior to his assignment as postmaster at the Atlantic facility, he was a supervisor of Customer Service in Greenville, PA and had worked approximately 10 hours a day. He believed the lack of work at Atlantic contributed to his mental state and stated that he had nothing constructive to do for six hours a day. He reiterated that he had to spend at least one year at Atlantic as postmaster. Copies of Mr. Meeder's chart notes dated from April 11 to August 14, 2003 were submitted together with a September 3, 2003 medical report from Dr. George F. Reeher, a Board-certified osteopath specializing in pediatrics and appellant's family physician. Dr. Reeher diagnosed unipolar depression and post-traumatic stress disorder related to appellant's military service in Viet Nam.

By decision dated September 15, 2003, the Office denied appellant's claim finding that there was no evidence which established that he sustained an injury while in the performance of duty. The Office found that the stressors appellant cited were not compensable employment factors.

LEGAL PRECEDENT

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

Workers' compensation law is not applicable 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 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 comes within coverage of the Federal Employees' Compensation Act.² On the other hand, there are situations when an injury has some connection with the employment, but nonetheless does not come within the coverage of workers' compensation because it is not considered to have arisen in the course of the employment.³ 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.⁴

ANALYSIS

Appellant attributed his emotional condition to dissatisfaction or boredom over the job duties at his current facility and the fact that he had to remain at such facility for a year before being eligible for a transfer. The employing establishment's policy pertaining to a request to transfer is an administrative or personnel matter,⁵ which is compensable only upon a showing of error or abuse by the employing establishment. As appellant has alleged error or abuse in the administration of a personnel matter, the employing establishment's length of time he must stay before being eligible for a transfer, he must establish a factual basis for his claim by supporting his allegations with probative and reliable evidence.⁶ Appellant has not substantiated that the employing establishment erred or acted abusively in its policy of having to remain at the facility for one year before being eligible for a transfer. Additionally, appellant's feeling of dissatisfaction or boredom over the duties of his job position does not constitute a compensable factor of employment as dissatisfaction or boredom with the lack of challenging work does not

¹ *Leslie C. Moore*, 52 ECAB 132 (2000).

² 5 U.S.C. §§ 8101-8193.

³ *Bonnie Goodman*, 50 ECAB 139 (1998); *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Robert Knoke*, 51 ECAB 319 (2000).

⁵ See *James W. Griffin*, 45 ECAB 774 (1994).

⁶ See *Roger Williams*, 52 ECAB 468 (2001).

come within the concept of coverage under the Act.⁷ Therefore, appellant has failed to establish a compensable factor of employment with respect to his experiences at his current facility.

CONCLUSION

Under the circumstances described above, the Board finds that appellant has not established that he sustained an emotional condition in the performance of duty.⁸

ORDER

IT IS HEREBY ORDERED THAT the September 15, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 15, 2004
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ *Martin Standel*, 47 ECAB 306 (1996).

⁸ Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Roger Williams*, *supra* note 6; *Garry M. Carlo*, 47 ECAB 299, 305 (1996).