

Dascole, his manager. He identified April 26, 2002 as the date he first realized his condition was employment related. Appellant stopped work on May 1, 2002.

In a May 2, 2002 statement, appellant alleged abusive treatment by Mr. Dascole, the manager of maintenance operations. Appellant stated that during the time period of April 2 to 26, 2002 he received more discipline than he had ever previously received during his 29-year tenure with the employing establishment. He identified three disciplinary actions taken in April 2002. The first two actions involved suspensions for a total of three weeks for insubordination and failure to follow instructions. The third incident allegedly involved appellant being placed on absence-without-leave (AWOL) status. Appellant alleged that Mr. Dascole told him to go file his grievances because whether appellant won or not, he would just turn around and do the same thing again. Appellant expressed reluctance about returning to work because he believed Mr. Dascole would attempt to remove him from his job. He also indicated that the pressure that would be placed upon him would be greater than he could bear.

The Office received copies of the April 2 and 16, 2002 notices of suspension. The first notice was for a seven-day suspension for insubordination occurring on March 25, 2002 when appellant left work before completing a project he had been instructed to perform. The April 16, 2002 notice of a 14-day suspension was for failure to make appropriate entries in the log book for work performed on April 9, 2002. Both suspensions were signed by Glenn Goodale, supervisor of maintenance operations, and Mr. Dascole was identified as the concurring official. The Office also received a copy of an April 11, 2002 investigative interview in which appellant acknowledged that he had been advised to properly log information concerning work he performed on machines and that he neglected to do so on April 9, 2002.

In a letter dated May 5, 2002, Mr. Goodale advised that he had either worked with or supervised appellant since 1987, and appellant had been disciplined on numerous occasions prior to April 2002. He identified seven instances between May 23, 1996 and March 28, 2002 when appellant had been disciplined for poor work performance. Mr. Goodale advised that the April 22, 2002 charge for eight hours of AWOL had been converted to leave without pay (LWOP). In a second letter dated May 7, 2002, Mr. Goodale stated that the recent discipline of appellant was meant to correct his deficiencies and not to place undue pressure upon him or to abuse him. He had no knowledge of the substance of any conversation between appellant and the maintenance manager on April 26, 2002.

Appellant filed grievances regarding the April 2 and 16, 2002 notices of suspension. Mr. Dascole, as the Step II reviewing official, denied both grievances on May 29, 2002.

In a May 1, 2002 report, Dr. Walter E. Afield, a Board-certified psychiatrist, diagnosed severe depressive reaction, severe anxiety disorder and somatic complaints and chest pain of uncertain etiology. Dr. Afield noted that appellant recently received a total of three weeks of suspension for what appellant believed to be minor things. Although Dr. Afield stated that it was possible that the stress put upon appellant by his supervisors was causing all of his problems, the doctor wished to defer judgment until an extended evaluation had been completed.

On July 22, 2002 the Office requested additional factual and medical information. The Office explained that the factual evidence submitted thus far did not establish error or abuse on the part of the employing establishment in taking the various disciplinary measures.

Appellant responded on August 2, 2002. While he commented on a number of employment incidents that predated the April 2002 disciplinary matters, he did not provide any additional evidence regarding the disciplinary actions. Appellant also submitted additional reports from Dr. Afield and other treatment records.

In a decision dated April 8, 2003, the Office denied appellant's claim as he failed to establish any compensable employment factors as the cause of his claimed emotional condition.

Appellant requested an oral hearing, which was held on December 30, 2003. At the hearing appellant testified that the employing establishment reimbursed him for the pay he lost during his three-week suspension. Appellant also submitted additional medical evidence.

On February 9, 2004 Mr. Dascole responded to portions of appellant's testimony. He denied telling appellant to go ahead and file his grievances. Mr. Dascole also provided further details concerning the March 25, 2002 incident that gave rise to appellant's seven-day suspension for insubordination. Additionally, the employing establishment provided a copy of a January 21, 2003 arbitrator's decision denying appellant's grievance regarding the April 2, 2002 suspension for insubordination.

Appellant responded to Mr. Dascole's statement on February 20, 2004. He noted, among other things, that the remarks he attributed to Mr. Dascole were carved in his memory like a scar and were the essence of his claim.

By decision dated March 26, 2004, the Office hearing representative affirmed the April 8, 2003 decision.

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 her condition; (2) rationalized medical evidence establishing that she has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that her emotional condition is causally related to the identified compensable employment factors.¹

Workers' compensation law does not apply to each and every injury or illness that is somehow related to one's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless, does not come within the purview of workers' compensation. When disability results from an emotional reaction to regular or

¹ See *Kathleen D. Walker*, 42 ECAB 603 (1991). Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

specially assigned work duties or a requirement imposed by the employment, the disability is deemed 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 or hold a particular position.² Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting her allegations with probative and reliable evidence.³

ANALYSIS

As a general rule, a claimant's reaction to administrative or personnel matters falls outside the scope of the Federal Employees' Compensation Act.⁴ However, to the extent the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.⁵ Disciplinary matters are administrative in nature and an emotional reaction to a disciplinary action is not compensable absent a showing of error or abuse on the part of the employing establishment.⁶ In the instant case, appellant failed to establish that the employing establishment either erred or acted abusively in issuing the April 2 and 16, 2002 notices of suspension. Appellant has not denied that the underlying incidents of March 25 and April 9, 2002 occurred. He contends that a total of three weeks' suspension was not an appropriate response. The two grievances appellant filed have not been resolved in his favor and, although appellant claimed to have been reimbursed for the pay he lost during his suspension, he offered no proof to substantiate this assertion. Furthermore, the mere fact that personnel actions were later modified or rescinded does not, of itself, establish error or abuse.⁷ Consequently, appellant failed to establish that the employing establishment either erred or acted abusively in issuing suspensions on April 2 and 16, 2002.

Appellant also alleged that the employing establishment improperly placed him on AWOL status. Although the handling of leave requests and attendance matters are generally related to the employment, they are administrative functions of the employer, and not duties of the employee.⁸ The record contains very few details regarding appellant's AWOL status. Mr. Goodale stated that the April 22, 2002 charge for eight hours of AWOL had been converted to LWOP, but did not provide any other details. The record in this case does not establish that

² *Lillian Cutler*, 28 ECAB 125 (1976).

³ *Ruthie M. Evans*, 41 ECAB 416 (1990).

⁴ *Id.*

⁵ *Id.*

⁶ *Roger Williams*, 52 ECAB 468, 473 (2001).

⁷ *Dennis J. Balogh*, 52 ECAB 232, 238 (2001).

⁸ *Dinna M. Ramirez*, 48 ECAB 308, 313 (1997).

the employing establishment erred in charging appellant with AWOL. The mere fact that the charge was subsequently changed to LWOP does not, of itself, establish error or abuse.⁹

The Board has recognized that verbal abuse or threats of physical violence in the workplace are compensable under certain circumstances. This, however, does not imply that every ostensibly abusive or threatening statement uttered in the workplace will give rise to coverage under the Act.¹⁰ Verbal altercations and difficult relationships with supervisors, when sufficiently detailed by the claimant and supported by the record, may constitute compensable factors of employment.¹¹ Appellant alleged that Mr. Dascole told him to go ahead and file his grievances because whether appellant won or not, he would just turn around and do the same thing again. Mr. Dascole specifically denied ever having such a conversation and Mr. Goodale stated that he had no knowledge of the substance of any conversation between appellant and the maintenance manager on April 26, 2002. Appellant has not submitted any evidence to substantiate his allegations. Appellant's general dissatisfaction with the April 2002 disciplinary matters is not compensable. Complaints about the manner in which a supervisor performs his duties or the manner in which a supervisor exercises his discretion fall, as a rule, outside the scope of coverage provided by the Act.¹² This principle recognizes that a supervisor or manager in general must be allowed to perform his duties and employees will, at times, dislike the actions taken, but mere disagreement or dislike of a supervisory or managerial action will not be actionable, absent evidence of error or abuse.¹³ In the instant case, appellant has not submitted evidence of error or abuse to establish that either Mr. Dascole or Mr. Goodale acted unreasonably in discharging their respective managerial duties.

As appellant failed to establish a compensable factor of employment as the cause of his claimed emotional condition, the Office hearing representative properly denied the claim.

CONCLUSION

The Board finds that appellant failed to establish that he sustained an emotional condition in the performance of duty.

⁹ *Dennis J. Balogh*, *supra* note 7.

¹⁰ *Fred Faber*, 52 ECAB 107, 109 (2000).

¹¹ *Marguerite J. Toland*, 52 ECAB 294, 298 (2001).

¹² *Id.*

¹³ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the March 26, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 17, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member