

only one day for a few hours and then went on indefinite sick leave on March 10, 2004.” The employing establishment reported on the claim form that appellant had a problem retaining contractual procedures and regulations and remembering things that he was currently doing, and it was assumed this was the reason he could not accomplish work assignments.

In a letter dated April 28, 2004, the Office requested additional information with respect to the claim. Appellant submitted a March 3, 2004 report from Dr. David Kliger, a psychiatrist, reporting that appellant complained “they are giving me a hard time at work.” Dr. Kliger provided results on examination and stated that appellant presented with anxiety and depression from job-related stress. He diagnosed adjustment disorder with anxiety and depression and occupational problem. Appellant also submitted a March 9, 2004 report from a social worker who noted that appellant complained that “the whole office is against me.”

In a statement dated May 25, 2004, appellant indicated that he suffered from gradual loss of memory and shortness of breath from two previous strokes. He stated that he had a tendency to “skip or not remember details of tasks I am assigned to do,” which had been “misunderstood by my coworkers as my not having the knowledge to follow instructions” and accordingly he was “being penalized with inferior treatment in my work environment.” Appellant further stated that because of his physical condition his work performance was minimal at best and he was unable to do the job accurately and in a timely fashion; he also noted that the system of contracting at his present duty station was much different from his previous experience.

In a decision dated September 21, 2004, the Office denied appellant’s claim for compensation. The Office found that appellant had not established any compensable work factors with respect to his claim.

LEGAL PRECEDENT

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.¹ This burden includes the submission of detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.²

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 workers’ compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee’s frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee’s emotional reaction to his regular or specially assigned work duties or to a requirement imposed by

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

² *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.³

A reaction to an administrative or personnel matter is generally not covered as it is not related to the performance of regular or specially assigned duties.⁴ Nevertheless, if the evidence demonstrates that the employing establishment erred, acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁵

ANALYSIS

The initial question presented is whether appellant has alleged and substantiated compensable work factors in this case. Once a compensable work factor or factors is established, then the medical evidence is examined to determine if causal relationship is established between a diagnosed condition and the compensable work factors.

The evidence of record submitted by appellant is not sufficient to establish a compensable work factor. Appellant reported to Dr. Kliger that he was "given a hard time at work," to the social worker appellant stated that "the whole office was against him" and in his May 25, 2004 statement appellant reported that he was being penalized with inferior treatment. It is not clear what specifically appellant is alleging occurred at work that caused him stress, whether, for example, he is referring to disciplinary actions by his supervisors or specific actions by his coworkers. The Board notes that to the extent appellant is referring to administrative or personnel matters, these generally do not relate to his regular or specially assigned duties. A compensable work factor in an administrative matter can be established only if there is evidence of error or abuse. Appellant did not submit any evidence with respect to error or abuse by the employing establishment.

Appellant also briefly referred to his difficulty in performing his assigned duties, and he indicated that he had both cognitive and physical impairments from two prior strokes. He did not provide any details in this regard; he did not discuss his job duties, provide specific examples of assignments he had difficulty completing and explaining how this related to his claim for an emotional condition.

It is appellant's burden to submit the necessary factual evidence, including a detailed description of the employment factors or conditions which appellant believes contributed to a medical condition. The Board finds that appellant did not submit sufficient evidence to establish a compensable work factor in this case. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.⁶

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *See Brian H. Derrick*, 51 ECAB 417, 421 (2000).

⁵ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

⁶ *See Margaret S. Krzycki*, 43 ECAB 496 (1992).

CONCLUSION

The Board finds that appellant did not allege and substantiate a compensable work factor with respect to his claim. He did not meet his burden of proof and the Office properly denied his claim.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 21, 2004 is affirmed.

Issued: March 18, 2005
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member