

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

WALTER L. HAWKINS, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Riverdale, GA, Employer**

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**Docket No. 05-1795
Issued: November 8, 2005**

Appearances:
Walter L. Hawkins, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
WILLIE T.C. THOMAS, Alternate Judge

JURISDICTION

On July 28, 2005 appellant filed a timely appeal from an Office of Workers' Compensation Programs' decision dated May 20, 2005, 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 claim.

ISSUE

The issue is whether appellant sustained an emotional condition in the performance of duty causally related to factors of his employment.

FACTUAL HISTORY

On March 15, 2005 appellant, then a 56-year-old customer service supervisor, filed an emotional condition claim alleging that on August 14, 2004 he quit his job because he sustained a stress condition and panic disorder due to excessive pressure and demands from his supervisor.

In a November 1, 2004 report, Rosalind J. Nation, a licensed clinical social worker, stated that she had been providing therapy to appellant since October 5, 2004 to assist him in dealing with job stress. In reports dated March 10 to 15, 2005, Judy W. Schneider, a psychotherapist, stated that appellant had been treated since December 6, 2004 for a panic disorder and stress and was totally disabled.

By letter dated April 4, 2005, the Office asked appellant to provide additional information in support of his claim, including a description of the specific work incidents or situations which caused his emotional condition and a detailed narrative report from his attending physician explaining how his condition was causally related to factors of his employment.

By decision dated May 20, 2005, the Office denied appellant's claim on the grounds that his emotional condition was not causally related to a compensable factor of employment.¹

LEGAL PRECEDENT

The Federal Employees' Compensation Act² provides for the payment of compensation benefits for injuries sustained 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) factual evidence identifying compensable employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.³

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*,⁴ the Board explained that there are distinctions in the type of employment situations giving rise to a compensable emotional condition under the Act. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the coverage under the Act.⁵ When an employee experiences emotional distress in carrying out his employment duties and the medical evidence establishes that, the disability resulted from his emotional reaction to such situation, 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 an emotional reaction to a special assignment or other requirement imposed by the

¹ Appellant submitted additional evidence subsequent to the Office decision of May 20, 2005. However, the Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. See 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

² 5 U.S.C. §§ 8101-8193.

³ *George C. Clark*, 56 ECAB ___ (Docket No. 04-1573, issued November 30, 2004).

⁴ 28 ECAB 125 (1976).

⁵ *George C. Clark*, *supra* note 3.

employing establishment or by the nature of his work.⁶ On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.⁷ Generally, actions of the employing establishment in administrative matters, unrelated to the employee's regular or specially assigned work duties, do not fall within coverage of the Act.⁸ However, 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.⁹

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.¹⁰ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.¹¹

ANALYSIS

Appellant alleged that August 14, 2004 he quit his job because of stress caused by excessive pressure and demands from his supervisor. To the extent that disputes and incidents alleged as constituting harassment and discrimination by supervisors and coworkers are established as occurring and arising from appellant's performance of his regular duties, these could constitute a compensable employment factor.¹² However, for harassment and discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment or discrimination are not compensable under the Act.¹³ Appellant made a general allegation of harassment from his supervisor but failed to provide a description of the specific incidents or situations which caused his emotional condition with dates, the names of the individuals involved and what occurred. Such specific information is necessary in order to determine whether appellant's emotional condition is causally related to a compensable factor of

⁶ *Lillian Cutler*, *supra* note 4.

⁷ *Id.*

⁸ *Michael L. Malone*, 46 ECAB 957 (1995).

⁹ *Charles D. Edwards*, 55 ECAB ____ (Docket No. 02-1956, issued January 15, 2004).

¹⁰ *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹¹ *Id.*

¹² *Charles D. Edwards*, *supra* note 9.

¹³ *Donna J. DiBernardo*, 47 ECAB 700 (1996).

employment. Therefore, this general allegation of harassment is not deemed a compensable employment factor.

Appellant has failed to establish that his emotional condition was causally related to a compensable factor of employment. Therefore, the Office properly denied his claim.¹⁴

CONCLUSION

The Board finds that appellant failed to establish that his emotional condition was causally related to a compensable factor of employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 20, 2005 is affirmed.

Issued: November 8, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

¹⁴ Unless appellant alleges a compensable factor of employment substantiated by the record, it is unnecessary to address the medical evidence. See *Barbara J. Latham*, 53 ECAB 316 (2002); *Garry M. Carlo*, 47 ECAB 299 (1996).