



By letter dated July 12, 2005, the Office informed appellant that the evidence of record was insufficient to support his claim. It advised him to submit medical and factual information within 30 days.

Appellant submitted a description of his treatment by Dr. Faheem Moghal, an attending physician. He also submitted a June 17, 2005 report from Linda Felder, licensed clinical social worker, and a July 1, 2005 treatment note by Iris Snapper, a licensed clinical social worker. Appellant related that he felt threatened when Mr. Gilbert reacted aggressively to his inquiry regarding a fax he received on June 16, 2005. He noted that the fax was from his mortgage broker and contained personal information which was left “on the fax for three hours.” Dr. Moghal noted his diagnosis was “confidential” and indicated that appellant was totally disabled for the period July 12 to 31, 2005.

By decision dated August 19, 2005, the Office denied appellant’s claim.

On September 9, 2005 appellant requested an oral hearing which was held on March 29, 2006. At the hearing appellant submitted an April 6, 2006 report from Dr. Moghal.<sup>1</sup> He stated that appellant had been treated on September 16, 2006 and his “findings are consistent with those of Iris Snapper,” appellant’s therapist. Appellant contended that he was denied due process, that the employing establishment failed to forward his documentation and he was unable to get in contact with his case worker. He testified regarding the fax he received at work and Mr. Gilbert notifying appellant three hours after receipt of the fax. Appellant testified that he felt threatened when Mr. Gilbert stated that he was not a chump. He also indicated that he felt the words “I’m not a chump” to be violent words. Appellant alleged that he had “been a victim of a violent crime” and he took “all threats seriously.”

In an August 12, 2005 report, Dr. Moghal diagnosed adjustment disorder with mixed anxiety and depression. He noted that appellant returned to work on August 1, 2005 and was still dealing with and being provoked by the manager who harassed him in June.

By decision June 13, 2006, the Office hearing representative affirmed the denial of appellant’s emotional condition claim, finding that he had not established a compensable employment factor.

### **LEGAL PRECEDENT**

To establish that she 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;

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<sup>1</sup> This report was received into evidence three times.

(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.<sup>2</sup>

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 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 to hold a particular position.<sup>3</sup> 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 his allegations with probative and reliable evidence.<sup>4</sup>

### ANALYSIS

Appellant alleged that he sustained an emotional condition following a June 16, 2005 conversation with Mr. Gilbert, a supervisor-in-training. He alleged a threat by Mr. Gilbert. The Office found that appellant did not establish a compensable employment factor. The Board must review whether the incident constitutes a compensable factor of employment.

The Board finds that the factual evidence does not support appellant's allegation that he was threatened by Mr. Gilbert. Appellant alleged that the threat involved Mr. Gilbert stating that he was no chump. The Board has recognized the compensability of physical threats or verbal abuse in certain circumstances.<sup>5</sup> This does not imply, however, that every statement uttered in the workplace will give rise to coverage under the Federal Employees' Compensation Act.<sup>6</sup> To establish entitlement to benefits, appellant must establish a factual basis for his claim by supporting allegations with probative and reliable evidence.<sup>7</sup> However, there is no evidence, beyond appellant's assertion supporting that the June 16, 2005 conversation with Mr. Gilbert rises to the level of a compensable employment factor. As there is no such evidence regarding the June 16, 2005 incident, appellant had not established a compensable factor of employment in regard to this incident. Appellant also alleged error on the part of Mr. Gilbert, noting that he was

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<sup>2</sup> See *Doretha M. Belnavis*, 57 ECAB \_\_\_\_ (Docket No. 05-1879, issued January 12, 2006); *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. *Robert Breeden*, 57 ECAB \_\_\_\_ (Docket No. 06-734, issued June 16, 2006); *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

<sup>3</sup> *Jeral R. Gray*, 57 ECAB \_\_\_\_ (Docket No. 05-1851, issued June 8, 2006); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>4</sup> *Andrew Wolfgang-Masters*, 56 ECAB \_\_\_\_ (Docket No. 05-1, issued March 22, 2005); *Ruthie M. Evans*, 41 ECAB 416 (1990).

<sup>5</sup> *David S. Lee*, 56 ECAB \_\_\_\_ (Docket No. 04-2133, issued June 20, 2005).

<sup>6</sup> *Charles D. Edwards*, 55 ECAB 258 (2004).

<sup>7</sup> *Andrew J. Sheppard*, 53 ECAB 170 (2001).

notified of a fax received. The evidence does not establish error by Mr. Gilbert. The Board finds that appellant has not established these allegations as compensable factors of his employment.

The Board finds that appellant has failed to establish a compensable factor of employment with regard to his allegation and consequently has not met his burden of proof in establishing his claim for an emotional condition.<sup>8</sup>

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that he sustained an emotional condition in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 13, 2006 is affirmed.

Issued: December 6, 2006  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>8</sup> Where a claimant has not established any compensable employment factors, it is not necessary to consider the medical evidence of record. *Robert Breeden, supra* note 2; *Peter D. Butt Jr.*, 56 ECAB \_\_\_\_ (Docket No. 04-1255, issued October 13, 2004).