

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

JAMES B. HICKOK, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Salt Lake City, UT, Employer**

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**Docket No. 06-70
Issued: July 12, 2006**

Appearances:
James B. Hickok, 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
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On October 12, 2005 appellant filed a timely appeal of a July 7, 2005 decision of the Office of Workers' Compensation Programs that denied modification of a June 22, 2001 decision denying his claim for an emotional condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this emotional condition case.

ISSUE

The issue is whether appellant sustained an emotional condition in the performance of duty.

FACTUAL HISTORY

On November 8, 1999 appellant, then a 47-year-old manager of delivery operations, filed a traumatic injury claim, alleging that on October 29, 1999 he experienced chest pains and a

panic attack after two meetings with the postmaster.¹ Appellant stopped work on October 29, 1999. The employing establishment controverted the claim.²

In support of his claim, appellant submitted various correspondence and statements. Appellant alleged that, in March 1999, he worked extra hours to accommodate the relocation of the mail processing operation. He described a heated meeting that occurred on July 17, 1999 with Sally Hislop, a union steward, regarding overtime assignments and enforcement of a dress code. Appellant indicated that Ms. Hislop became angry and abusive, yelling and shaking her finger in his face. He included a copy of her response related to this meeting. Appellant also described events related to his performance evaluations and alleged that he was given numerous assignments with regard to running the main office. Appellant disagreed with the way things were handled and met with Jeff Davis, the postmaster, on October 22, 1999 regarding working with Steve Oblad, a coworker with whom appellant had previous conflicts. During this meeting, appellant was informed that Mr. Oblad was being transferred from the night shift to supervise carriers which appellant managed. Appellant described a panic attack and chest pains that occurred while meeting with Mr. Davis on October 29, 1999, during a discussion of his work performance, purchases made on his facilities credit card and his disagreement with the changing of supervisory assignments. He noted that Mr. Davis gave him an express mail package, which was time sensitive and asked him to process it. Because it was time sensitive, appellant feared the mail would be processed late and be counted against him.

In a December 10, 1999 letter, appellant addressed other factors that he believed contributed to his claimed condition. These included abdominal pains in March 1999, when he was reassigned to the Sandy, Utah, Post Office. Appellant noted various issues related to management's decision to relocate mail processing operations to the Sandy Post Office, as well as decisions concerning expectations as to his future performance and his merit evaluations. He also discussed his personal relationship with an employee he supervised, Kristen Gordon. After appellant stopped work due to chest and abdominal pains, he was told that on Saturday, October 30, 1999 an intercom announcement was made by "Hawker" that he had a "heart attack and that there would be a party next week." The following Monday, another coworker asked if he was supposed to give back the donuts that were brought in the previous Saturday to celebrate appellant's heart attack. On December 8, 1999 appellant learned that Mr. Davis told other carriers that, when he was in the fifth grade, he rallied his class against a teacher to make her life miserable and that was what they were doing to him. Appellant referred to an undated incident when he went to the employing establishment on a weekend to pick up a bonus check and found out it was being held by Mr. Davis. Appellant alleged that this was unusual and caused him

¹ On May 10, 1999 appellant filed an occupational disease claim for severe abdominal pains resulting in surgery. This File No. 12-182653, was denied in an August 17, 1999 decision and affirmed by an Office hearing representative on August 8, 2000. In January 2000, the Office doubled the present October 29, 1999 claim for stress with a September 6, 1997 claim for stress-related abdominal pains; File No. 120182653 was doubled with File No. 120186623. The record also contains a November 7, 1994 claim for pain in the shoulder region, File No. 120150261. This claim is not before the Board. Additionally, appellant filed an occupational disease claim for anxiety on June 27, 2001. This claim was given File No. 12-2006225. The Office did not issue a decision on this claim.

² Appellant returned to work in December 2000.

stress as it delayed the receipt of the check, while other supervisors did not have to get their checks from Mr. Davis.

On February 12, 2000 Haidee Petersen, a human resources specialist, submitted statements from Mr. Davis, Heidi Seitz, a supervisor at the Provo, Utah Post Office; Curtis Muramoto, an officer in charge at the Richmond, Utah Post Office; Byron Burnett, a manager of operations at the Salt Lake City Performance Cluster; Rick Brandon, a manager of customer service in the Sandy, Utah Post Office; Kenneth Whitlock, a supervisor of customer service at the Salt Lake City Performance Cluster and Mr. Oblad, a supervisor at the Sandy, Utah Post Office. Ms. Petersen noted that appellant applied for the position at the Sandy Post Office and that his years of labor relations experience would be helpful to calm the labor climate at that post office. She noted that several of appellant's allegations related to his prior claim, submitted on September 6, 1997 and which was denied. Appellant began working in the Sandy Post Office on March 15, 1997; was out due to surgery from April 12 to June 1, 1999 and that he stopped work on November 4, 1999. In her undated statement, Ms. Seitz indicated that she heard an announcement over the loud speaker, which was allegedly in celebration of one less manager but she did not recall appellant being mentioned.

In a January 31, 2000 statement, Mr. Davis noted that appellant competed for the right to be assigned to the Sandy Post Office. He noted that appellant did not initially mention his abdominal pains and headaches, but was informed that appellant's diverticulitis was flaring up in late February 1999. Mr. Davis noted that upon appellant's return in March 1999, appellant alleged that his diverticulitis was stress related. He alleged that appellant's problems with management were under his control and part of appellant's job responsibilities, that managers were required to work additional hours to deal with an audit and that appellant was provided with people to whom he could delegate duties, such as Mr. Brandon, a supervisor. Mr. Davis addressed appellant's management functions and referred to training issues, appellant's involvement with Ms. Gordon, uniform issues, the assignment of supervisors and scheduling and denied that any inappropriate actions were taken. He referred to an incident regarding appellant's bonus check and explained that he wished to hand the checks out personally and this caused confusion when appellant arrived to get his check. He denied excluding appellant from meetings or that any comments were made over the intercom system against appellant. In a February 2, 2000 statement, Mr. Oblad denied appellant's allegations and noted difficulties working with appellant such as appellant's refusal to support him regarding incomplete audit forms. He stated that he was not defiant towards appellant, but merely frustrated as he was not receiving assistance. Mr. Oblad also denied that he told appellant that he would do whatever it took to stay off the night shift. In a February 2, 2000 statement, Mr. Whitlock noted that it was common knowledge that appellant and Ms. Gordon were "involved in a relationship." Mr. Whitlock indicated that he did not believe that the union was managing management or vice versa. When he attempted to make the schedule without input from Ms. Gordon, it was changed by appellant based upon her suggestions. In a February 2, 2000 statement, Mr. Brandon noted the handling of appellant's bonus check and noted that Mr. Davis wanted to personally hand out the checks to the supervisors. He denied that the postmaster or he gave into the union. In a January 31, 2000 statement, Mr. Burnett noted that appellant was ranked properly with regard to his merit and that, during a meeting, appellant's relationship with Ms. Gordon was discussed as it appeared that she was getting preferential treatment with regard to the schedule.

In a February 24, 2000 report, Dr. Daniel Rapp, a Board-certified psychiatrist, noted that appellant was assigned to the Sandy Post Office in April 1997. Beginning in March 1999, he began to experience abdominal pain, insomnia and headaches which appellant related to problems with employees he supervised and to Mr. Davis. Dr. Rapp noted that appellant had conflicts with other supervisors who prevented him from increasing the performance of his office and that conflicts between appellant and Mr. Davis resulted in stress because Mr. Davis portrayed appellant as an “ineffective manager.” Dr. Rapp noted that appellant related that he was given an “unjustified” performance appraisal by Mr. Davis and that Mr. Davis inaccurately gathered data from appellant’s post office that negatively effected his performance. He referred to allegedly erroneous data in a January 1999 performance evaluation that was later used to negatively impact his performance in February and July 1999. Appellant believed the personality conflict was also due to a personal relationship that he had developed with an employee and alleged that rumors were spread about him. Dr. Rapp noted that disagreements arose between appellant and Mr. Davis regarding personnel, business decisions, delivery instructions, mail distribution and the scheduling of employees. Dr. Rapp diagnosed panic disorder with agoraphobia, specific phobia, major depressive disorder, recurrent, moderate and postcolectomy and history of gastric ulcer. He opined that appellant’s disorders were directly related to his work circumstances and that appellant could not return for the foreseeable future. He submitted additional reports indicating that appellant was unable to return to work.

By decision dated June 20, 2000, the Office denied the claim on the basis that the events were not established as having occurred in the performance of duty.

By letter dated June 23, 2000, appellant alleged that his gastric condition was aggravated or accelerated by work factors. He alleged that Mr. Davis knowingly relied upon inaccurate data in making his performance rating, assigned more work than he could handle, held him accountable for circumstances beyond his control, gave him insufficient staffing, did not correct a work hour shortage and improperly held his check two weeks before Christmas.

In a June 22, 2000 report, Dr. Richard S. Schneiman, a licensed clinical psychologist, noted treating appellant for panic disorder. He opined that appellant’s panic attacks were not self-generated but were triggered by his reactions to work-related emotional abuse.

In a June 26, 2000 report, Dr. Rapp advised that appellant could return to work provided he did not have any direct contact with his former supervisor, Leo McIsaac or Mr. Davis and no position in the Sandy Post Office or in management. Dr. Rapp submitted additional reports.

A hearing was held on November 28, 2000. During the hearing, appellant described events occurring in March, July and October 1999. He submitted a statement from Randall Mayfield which was undated. Mr. Mayfield alleged that Mr. Davis compared appellant to his fifth grade teacher and explained how he had rallied his class against the teacher. Appellant listed numerous events in October 1999, including that he was assigned 11 additional work duties, that he was assigned numerous tasks, some of which had deadlines that had already passed prior to being assigned to him. The extra duties included handling customer complaints, handling supervisory duties, completing paperwork for accidents occurring in a different post office (Alta Canyon), coordinating safety talks, being instructed to obtain personal information

from Ms. Gordon, being involved in fixing roof leaks after a storm on October 28, 1999 damaged the building and dealing with contractors to make the repairs.

In a January 1, 2001 response, Mr. Davis confirmed that on March 22, 1999 appellant reported to work at 2:00 a.m. and left around 10:00 a.m. and did not return. He indicated that appellant was given goals to follow but was not left to perform his tasks without assistance. Mr. Davis had sided with appellant regarding a meeting with Ms. Hislop in July 1999 and noted that appellant seemed calm and competent afterwards, as opposed to Ms. Hislop, who became very excited. He also noted that appellant was very protective of Ms. Gordon to the extent that he would go after anyone who would go after his girlfriend. He also questioned Mr. Mayfield's letter, noting it was written a year after the event. Mr. Davis indicated that all emails were sent in the course of his work hours, that he asked appellant to resolve two customer complaints, that he asked appellant to complete a report where time was of the essence, that appellant volunteered for the safety coordinator position and that he asked appellant to conduct a job safety analysis. Mr. Davis addressed the upgrade and facility repair and addressed appellant's allegation concerning his credit card. He explained that the charges were his responsibility and appellant was not held accountable for those purchases. After giving appellant the express mail package, there were several hours before the deadline would pass and Mr. Davis confirmed that a mediator assisted them with issues once a week after appellant's June 1999 surgery.

In a January 4, 2001 response, Haidee Schouten, a human resources specialist, noted that appellant had a family history of diverticulitis. She indicated that Mr. Mayfield was not in the workplace in March 1999 and that his statement was based on hearsay. She noted that appellant was frustrated at the Sandy Post Office and was reacting to his supervisor's assignment of work and that appellant had limited interaction with contractors. The employing establishment and appellant submitted responses after the hearing.

In a March 15, 2001 decision, a hearing representative vacated the June 20, 2000 decision and remanded the matter to consolidate the claim with appellant's other emotional condition claim. The hearing representative found that appellant had established as compensable factors: on March 22, 1999 appellant worked extra hours to accommodate the relocation of the mail processing operation to the Sandy Post Office and had new activities associated with the relocation;³ on July 16, 1999 appellant had a discussion with union steward, Ms. Hislop, regarding overtime work to carriers and dress code enforcement in which Ms. Hislop became angry and abusive; in October 1999 appellant established that he was assigned extra duties, which included working as a safety coordinator, being required to speak with an angry customer about complaints, making changes in the delivery of mail, handling the filing of an injury claim and an accident report and obtaining information from Ms. Gordon in order to correct her paycheck; on October 28, 1999 appellant had to deal with a leak in the roof, including interacting with contractors to upgrade the facility. The Office hearing representative directed that appellant be referred for a second opinion examination to resolve whether appellant had a disabling

³ The Office found that appellant had a nonwork-related surgery on April 12, 1999 and thus there were only 15 workdays between March 22 and April 12, 1999.

condition causally related to the accepted compensable employment factors. The Office hearing representative advised that, after such development, a *de novo* decision should be issued.⁴

The Office subsequently received additional evidence including a July 18, 1999 letter from Ms. Hislop, regarding the meeting of July 17, 1999, email correspondence related to extra work and duties assigned to or performed by appellant, responses from the employing establishment, including that appellant conducted mediations outside his regular employment and appellant's position description. In an April 10, 2001 letter, Mr. Davis confirmed that on March 12, 1999 appellant had worked extra hours. He also noted that there was an inflammatory meeting between appellant and Ms. Hislop and explained that appellant handled the situation properly while Ms. Hislop became distressed. He also confirmed that additional duties were assigned to appellant and noted that they were part of his job responsibilities.

By letter dated April 23, 2001, appellant alleged that he did not perform any outside employment from November 22, 1999 to June 26, 2000 and clarified that he did not conduct any mediations during that time, although he attended a meeting, in his capacity as a board member of an occupational licensing division.

By letter dated May 4, 2001, appellant described incidents from 1995, with his previous supervisor, Mr. McIsaac, and asked that they be included with his claim. He referred to an April 1995 incident where he met with Mr. McIsaac and alleged that he was told that appellant was making Mr. McIsaac look bad and he would "get" him. His alleged incidents on September 22 and November 2, 1995 and indicated that he was overworked due to a back log and that his requests for training and leave were denied. He also alleged that his performance ratings were affected due to the overwork.

By letter dated April 6, 2001, the Office referred appellant, together with a statement of accepted facts, a set of questions and the medical record to Dr. Steven L. Methner, a Board-certified psychiatrist, for a second opinion evaluation.

In a May 25, 2001 report, Dr. Methner noted that appellant presented at the examination with Dr. Schneiman, appellant's psychologist. Dr. Methner noted appellant's history of injury and treatment, including a history of two episodes of recurrent unipolar depression. He indicated that appellant had a relapse of his condition with the onset of his diverticulosis followed by surgical correction in April 1999. Appellant developed panic attacks at age 44 and recurred at age 48 following his surgery. Dr. Methner explained that the recurrence of the panic disorder was in the context of postsurgical recovery and was attributed by appellant to conflicts at work and it was difficult to separate out the two stressors to establish which ones were "aggravating or causative." He diagnosed panic disorder with agoraphobia, partial remission; major depressive disorder, recurrent partial remission; diverticulitis, postcolectomy, gastric ulcer disease and moderate job conflicts. Dr. Methner opined that "[it] is my opinion with reasonable medical certainty that [appellant] suffered a relapse of his psychiatric condition of panic disorder, but not related to one or more of the compensable work factors but to the stress of his surgery." Dr. Methner noted that appellant had a history of managing stressful conflictual situations as part of his job in management and as a mediator and was trained specifically for these situations. He

⁴ On April 2, 2001 the Office doubled the claims under File No. 12-186623.

indicated that the accepted work factors were “within the scope of his usual and expectable job description and not out of the ordinary.” Dr. Methner noted that it appeared that appellant’s managerial position as well as his increased contact in conflicting situations would be anxiety provoking; however, appellant was already prone to having panic attacks prior to encountering the compensable work factors. He opined that he did not consider that appellant’s condition was causally related to the work factors but that it was an underlying condition present since 1995. Dr. Methner indicated that appellant was not disabled from work and could work in a lower stress position.

By decision dated June 22, 2001, the Office found that the report of Dr. Methner established that appellant’s psychiatric condition was not caused or related to the compensable work factors.

In a July 26, 2001 report, Dr. Mark V. Anderson, Board-certified in occupational medicine, reviewed the June 14, 2001 report of Dr. Schneiman, advised that appellant could return to work with restrictions.

In a January 23, 2002 report, Dr. Rapp noted that appellant’s abdominal surgery and recovery provided some stress. He indicated that it might be difficult to separate out the stress of abdominal surgery from that of the work environment; however, he opined that appellant’s “abdominal surgery *per se* did not ever arise as the primary stress related to [appellant’s] psychiatric problems.” Dr. Rapp concluded that appellant’s depression and anxiety disorder arose from particular work-related stresses and that the psychiatric disorders disabled appellant from work.

By letter dated February 3, 2002, appellant requested reconsideration and submitted evidence, including a February 6, 2002 Equal Employment Opportunity complaint of discrimination. By decision dated March 12, 2002, the Office denied appellant’s request for reconsideration without a review of the merits.

By letter dated March 12, 2002, appellant alleged that the Office improperly sent a second set of questions to Dr. Methner, who was conducting a second medical opinion examination. Appellant alleged that the first set of questions was standard and proper, but the second set of questions was improper and crafted to direct the physician or bias his opinion. By letter dated June 5, 2003, appellant requested reconsideration and submitted additional evidence. He noted that Dr. Schneiman had attended the second opinion examination conducted by Dr. Methner; however, he was not allowed to participate. Appellant also alleged that the examination conducted by Dr. Methner was not proper and that the Office failed to instruct Dr. Methner to consider appellant’s other claim for diverticulitis and resulting surgery.

In a decision dated October 28, 2003, the Office denied appellant’s request for reconsideration for the reason that it was not timely filed and failed to present clear evidence of error.

In an August 31, 2004 report, Dr. Schneiman noted that he had attended the second opinion examination conducted by Dr. Methner. Dr. Schneiman provided his opinion and

observations regarding Dr. Methner, which included that Dr. Methner seemed surprised at his presence and did not allow him to participate in the examination.

By decision dated July 7, 2005, the Office denied modification of the Office's June 22, 2001 decision.⁵ The Office also addressed appellant's allegations regarding the second opinion examination questions and determined that his arguments were without merit.

LEGAL PRECEDENT

Workers' compensation law does not apply to each and every 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 concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specifically assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.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

A claimant 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 employment factors.⁸ This burden includes the submission of a detailed description of the employment factors or conditions, which the employee believes caused or adversely affected the condition or conditions, for which compensation is claimed.⁹

ANALYSIS

Appellant alleged that he sustained an emotional condition as a result of a number of employment incidents and conditions. The Board must, thus, initially review whether the alleged incidents and conditions of employment are compensable under the terms of the Act.

The Board notes that appellant made several allegations related to administrative or personnel matters. These allegations are unrelated to the employee's regular or specially

⁵ On September 7, 2004 appellant filed an appeal with the Board. On March 10, 2005 the Board issued an order remanding case. Docket No. 04-2237. The Board set aside the Office's October 28, 2003 decision, finding that appellant's reconsideration request was timely and directing the Office to issue an appropriate decision.

⁶ 5 U.S.C. §§ 8101-8193.

⁷ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 126 (1976).

⁸ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁹ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

assigned work duties and do not generally fall within the coverage of the Act.¹⁰ However, the Board has also held that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse. In determining whether the employing establishment erred or acted abusively, the Board has examined whether management acted reasonably.¹¹

Among the administrative matters alleged by appellant were assertions regarding the employing establishment's decision to relocate the mail processing operations to the Sandy Post Office along with other administrative actions associated with this event. However, appellant has not presented any such evidence to show erroneous or abusive actions by management in deciding to relocate this operation and the employing establishment denied any error or abuse in this matter.

Appellant referred to an incident on October 22, 1999 when he was informed that a coworker, Mr. Oblad, was being transferred from the night shift to supervise carriers which he had managed. Appellant alleged that this contributed to his emotional condition as he had previous conflicts with this individual and discussed his concerns with management. Mr. Davis from the employing establishment confirmed that Mr. Oblad was transferred and that it was management decision. In the absence of error or abuse, the handling of the personnel matters such as offering an employee a certain position is an administrative function of the employer and not a duty of the employee.¹² There is no evidence showing that this action by management was unreasonable.

Regarding appellant's allegations that on October 29, 1999 he met with his supervisor regarding his performance and started experiencing chest pains, the Board has characterized supervisory discussions of job performance and reprimands as administrative or personnel matters of the employing establishment.¹³ At the meeting, appellant was concerned with regard to certain expenses which were made on his facilities' credit card. Mr. Davis confirmed that purchases were made, but explained that nothing was inappropriate related to the charges. He also informed appellant that he would not be negatively affected regarding the credit card charges. Appellant alleged that he became stressed when Mr. Davis gave him a piece of express mail which was time sensitive and feared the piece of mail would be processed late and count against him. However, Mr. Davis explained the circumstances of the express mail and indicated that the matter would not count against appellant. The Board notes that these allegations pertain to administrative matters.¹⁴ Appellant has not presented evidence showing that the employing establishment acted unreasonably in the matter. He also generally alleged that his supervisor was critical of how he was performing his job as a manager and pressured him to improve.

¹⁰ An employee's emotional reaction to administrative actions or personnel matters taken by the employing establishment is not covered under the Act as such matters pertain to procedures and requirements of the employer and do not bear a direct relation to the work required of the employee. *Sandra Davis*, 50 ECAB 450 (1999).

¹¹ See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

¹² *David S. Gilreath*, 56 ECAB ____ (Docket No. 04-1723, issued January 4, 2005).

¹³ *David C. Lindsey, Jr.*, 56 ECAB ____ (Docket No. 04-1828, issued January 19, 2005).

¹⁴ See *Andrew Wolfgang-Masters*, 56 ECAB ____ (Docket No. 05-1, issued March 22, 2005) (counseling sessions are administrative matters that are not covered under the Act unless there is evidence of error or abuse).

Reprimands, counseling sessions and other disciplinary actions are administrative matters that are not covered under the Act, unless there is evidence of error or abuse.¹⁵ The employing establishment noted that appellant was having difficulty in his position. However, there is no evidence of error or abuse.

Appellant also referred to picking up a bonus check and alleged that it was around Christmas time. He alleged that the manner in which Mr. Davis chose to hand out the checks caused a delay in receiving his check. The Board notes this is an administrative matter. Mr. Davis explained that he wished to personally hand out the checks, but some confusion arose and some individuals received their checks without personally obtaining them from him. Although appellant was frustrated, as it was two weeks before Christmas, this matter was not related to performance of his regular duties. Mr. Davis presented a reasonable explanation for his action and appellant has not otherwise presented evidence to establish error or abuse

Appellant also made several allegations that his emotional condition resulted from incidents related to his personal relationship with an employee, Ms. Gordon. In *Gracie A. Richardson*,¹⁶ the employee asserted that she was devastated by perceptions of coworkers gossiping behind her back and spreading rumors concerning her marital and personal relationships. The Board found that employee's perception of gossip and rumors was a personal frustration, which was not established by the evidence of record, nor related to her job duties or requirements and, therefore, was not compensable. The Board finds that appellant's perceptions related to his relationship with Ms. Gordon would be a personal frustration and not compensable.

Appellant also alleged a confrontational attitude between some employees and management. He also referred to an announcement over the loud speaker, which he believed was directed towards him and allegations that Mr. Davis was trying to get rid of him. He submitted a statement from Mr. Mayfield, who indicated that an announcement was made over the loud speaker. However, the employing establishment indicated that Mr. Mayfield was not working during the time the alleged announcement was made and that his hearsay observations came a year after the fact. Appellant has not otherwise corroborated his allegations. The Board notes that, in *Mildred D. Thomas*,¹⁷ the employee perceived an unsympathetic atmosphere among her coworkers following her return from bereavement leave and alleged harassment by coworkers. The Board held that the employee's perceptions were not compensable and that her general allegations of harassment were not sufficiently specific to support her claim of an emotional disability. Appellant's general perceptions related to the attitude between some employees and management is not compensable.

Appellant also alleged that he was threatened by his former supervisor, Mr. McIsaac, some time in 1995; however, this allegation is not supported by the record as his allegations are not specific as to time or place. Appellant also alleged over work in 1995, work assigned by Mr. McIsaac but did not support this allegation with specific details.

¹⁵ *Id.*

¹⁶ 42 ECAB 850 (1991).

¹⁷ 42 ECAB 888 (1991).

The Board notes that the Office accepted the following compensable factors, which included that on March 22, 1999 appellant had to work extra hours to relocate the mail processing operation to the Sandy Post Office. On July 16, 1999 he had a heated discussion with Ms. Hislop, a union steward, regarding the assignment of overtime work and the dress code in which Ms. Hislop became angry and abusive. As appellant was dealing with Ms. Hislop in the course of his duties as a manager, this is compensable factor. Appellant also established that, in October 1999, he was assigned extra duties as part of his managerial responsibilities. They included working as a safety coordinator, dealing with angry customers regarding complaints about mail service, making changes in the delivery of mail, filing an injury claim and an accident report and obtaining information from Ms. Gordon in order to make corrections in her paycheck. Appellant also established that additional duties were given him that required him to interact with contractors to make repairs related to a leak that occurred at the facility on October 28, 1999. However, appellant's burden of proof is not discharged by establishing compensable factors of employment. He must also submit rationalized medical opinion evidence establishing that his emotional condition is causally related to the accepted employment factors.¹⁸

In a February 24, 2000 report, Dr. Rapp noted that appellant was assigned to the Sandy Post Office in April 1997 and that, beginning in March 1999, he began to have abdominal pain, insomnia and headaches, which appellant related to a series of problems with employees under his supervision and his supervisor, Mr. Davis. However, Dr. Rapp did not sufficiently explain how any of the diagnosed conditions were caused or aggravated by any of the aforementioned compensable factors of appellant's employment.¹⁹

Appellant submitted additional reports from Drs. Anderson, Rapp and Schneiman. However, these reports did not specifically relate appellant's condition to any of the compensable factors of employment. The reports noted, generally, that appellant related his depression and anxiety from work-related stresses; however, neither of appellant's physicians attempted to specifically identify the origin of such stress in the workplace or distinguish it from other life stressors that persisted during his treatment. The medical evidence is insufficient to meet appellant's burden of proof in this case.

The Board also notes that appellant was seen by Dr. Methner on May 25, 2001 for a second opinion examination. Although appellant alleged that Dr. Methner was provided with an improper set of questions, the Board notes that the statement of accepted facts supplied to the physician appear accurate and the list of questions posed are not improper under the circumstances presented. Appellant has not submitted any evidence establishing bias by the physician. Dr. Methner noted appellant's history of injury and treatment and reviewed the record. He determined that appellant had a relapse of his condition with the onset of his diverticulosis, diverticulitis and surgical correction in April 1999. Dr. Methner opined that "[i]t is my opinion with reasonable medical certainty that [appellant] suffered a relapse of his psychiatric condition of panic disorder but not related to one or more of the compensable work

¹⁸ See *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹⁹ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

factors but to the stress of his surgery.” Dr. Methner noted that appellant had a history of managing stressful conflictual situations as part of his job in management and as a mediator was trained to deal with these situations. He opined that the compensable work factors were within the scope of his usual and expectable job description and not out of the ordinary. He concluded that appellant’s psychiatric condition was not related to the compensable work factors.²⁰

The Board finds that the medical evidence is insufficient to meet appellant’s burden of proof in this case.

CONCLUSION

The Board finds that appellant has established compensable factors of employment. However, the medical evidence is not sufficient to establish his emotional condition is causally related or aggravated by his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the July 7, 2005 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: July 12, 2006
Washington, DC

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

David S. Gerson, Judge
Employees Compensation Appeals Board

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

²⁰ To the extent that appellant alleged the referral to Dr. Methner was improper as a routine set of questions was not used, the Board finds that this allegation is without merit as there is no requirement that the Office utilize a standard set of questions. Appellant has not presented evidence that leading questions were used. *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 3.500.6(d) (September 1995). Furthermore, Dr. Schneiman’s presence at the examination was consistent with Office regulations that allow for an employee to have a qualified physician present at an examination. *See* 20 C.F.R. § 10.320.