

FACTUAL HISTORY

On February 28, 2005 appellant, then a 32-year-old fabric worker foreman,¹ filed an occupational disease claim alleging that he sustained post-traumatic stress disorder due to his employment. On October 1, 2004 he was notified of his reassignment as a correctional officer in the housing unit of the employing establishment. Appellant alleged that the reassignment triggered memories of a November 1987 incident when he was a hostage of Cuban detainees for nine days in the correctional facility.² He worked for one hour in the housing unit on November 14, 2004 before informing his supervisor that the “walls were closing in” and he took sick leave. Appellant submitted medical evidence in support of his claim.

On March 8, 2005 the employing establishment stated that appellant had worked voluntary overtime as a correctional officer 51 times from April 25, 2002 to November 14, 2004.

On April 22, 2005 the Office asked appellant to submit a detailed description of the specific work-related incidents or situations that contributed to his emotional condition, including relevant dates, locations, names of coworkers and supervisors involved. He did not respond.

By decision dated August 8, 2005, the Office denied appellant’s claim on the grounds that the evidence did not establish that his emotional condition was causally related to a compensable factor of employment.

Appellant requested reconsideration and submitted additional evidence. He submitted copies of correspondence from the employing establishment, medical reports, documents relating to employee conduct rules, a performance evaluation and therapy notes.

By decision dated October 12, 2006, the Office affirmed the August 8, 2005 decision.

LEGAL PRECEDENT

To establish a claim that he sustained an emotional condition in the performance of duty, a claimant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.³

¹ Appellant worked in a warehouse at the correctional facility. He had previously worked as a correctional officer at the facility.

² On October 1, 2004 appellant was suspended for 20 days and demoted to a correctional officer because he brought contraband (cigars) into the facility, misused a computer and failed to cooperate during an investigation.

³ *Pamela D. Casey*, 57 ECAB ___ (Docket No. 05-1768, issued December 13, 2005); *George C. Clark*, 56 ECAB ___ (Docket No. 04-1573, issued November 30, 2004).

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 an illness has some connection with employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the medical evidence establishes that the disability results from an employee's emotional reaction to his regular or specially assigned employment duties or to a requirement imposed by the employing establishment, the disability comes within coverage of the Federal Employees' Compensation Act.⁴ The same result is reached when the emotional disability resulted from the employee's emotional reaction to the nature of his work or his fear and anxiety regarding his ability to carry out his work duties.⁵ By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation law because they are not found to have arisen out of the employment, such as when disability results from 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.⁶

When working conditions are alleged as factors in causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable work factors of employment, which may be considered by a physician when providing an opinion on causal relationship and which are not deemed compensable factors of employment and may not be considered.⁷ When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor.⁸ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, then the Office must base its decision on an analysis of the medical evidence.⁹ As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim but rather must be corroborated by the evidence.¹⁰

ANALYSIS

The Board finds that appellant has not established any compensable factors of employment under the Act.

Appellant alleged that he sustained post-traumatic stress disorder because he was notified on October 1, 2004 that he was being reassigned as a correctional officer in the housing unit of

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Lillian Cutler*, 28 ECAB 125 (1976).

⁶ *Id.*

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

⁸ *Margaret S. Krzycki*, 43 ECAB 496 (1992).

⁹ *See Charles D. Edwards*, 55 ECAB 259 (2004).

¹⁰ *See Charles E. McAndrews*, 55 ECAB 711 (2004).

the employing establishment. He alleged that the reassignment triggered memories of a November 1987 incident when he was a hostage of inmates for nine days. Following his October 2004 notice of reassignment, appellant worked for one hour on November 14, 2004 before he took sick leave. His reassignment was a result of his demotion due to disciplinary action at the employing establishment. Appellant was suspended for 20 days and demoted to a correctional officer because he brought contraband (cigars) into the correctional facility, misused a computer and failed to cooperate during an investigation. The Board finds that his reassignment due to disciplinary action relates to an administrative or personnel matter, unrelated to the employee's regular or specially assigned duties and does not fall within the coverage of the Act.¹¹ Although the handling of disciplinary matters is generally related to the employment, it is an administrative function of the employer and not a duty of the employee.¹² The Board has found that an administrative or personnel matter will be considered to be an employment factor only where the evidence discloses error or abuse on the part of the employing establishment.¹³ In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.¹⁴ The Board finds that appellant has not submitted sufficient evidence to show that the employing establishment acted unreasonably in demoting and reassigning him because of his violations of employee conduct rules. Thus, appellant has not established a compensable employment factor under the Act with respect to administrative matters.

For the foregoing reasons, appellant has not established any compensable employment factors under the Act. Therefore, he has not met his burden of proof in establishing that he sustained an emotional condition in the performance of duty.¹⁵

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained an emotional condition in the performance of duty causally related to compensable factors of employment.

¹¹ See *Lori A. Facey*, 55 ECAB 217 (2004).

¹² *Id.*

¹³ *Charles D. Edwards*, *supra* note 9.

¹⁴ *Janice I. Moore*, 53 ECAB 777 (2002).

¹⁵ 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).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 12, 2006 is affirmed.

Issued: June 13, 2007
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