

intolerable working conditions, which resulted in a tension-filled work environment. He also claimed that management failed to take corrective action.¹

Appellant was seen on August 22, 2005 by Dr. John M. Stedman, who excused him from work through August 29, 2005. Dr. Stedman did not provide a specific diagnosis, but noted that he had seen appellant following a “significant upsetting and intolerable” incident at work on August 17, 2005, which caused him “considerable emotional trauma.” Appellant’s supervisor allegedly had him “go against ... a policy in retrieving a toolbox.” Dr. Stedman indicated that appellant was significantly agitated and upset to the point that both his physical and mental health were in danger.

In a September 21, 2005 statement, appellant contended that, on August 17, 2005, Richard Wear, maintenance supervisor, retaliated against him for previous whistleblower activity. Mr. Wear reportedly demanded that appellant enter another employee’s secured work area to remove appellant’s own toolbox, which had been in the same location for many years. Appellant claimed that Mr. Wear’s request violated a “safety requirement,” but he did not otherwise describe the alleged safety violation. He refused to comply with Mr. Wear’s request. Mr. Wear ordered appellant to comply with his request. The August 17, 2005 incident was reportedly witnessed by two employees whose presence appellant believed was staged by Mr. Wear. Appellant claimed that Mr. Wear was attempting to set him up for disciplinary action.

In a decision dated October 26, 2005, the Office denied the claim finding that appellant failed to establish that he sustained an injury.

On August 7, 2006 appellant requested reconsideration. He submitted a September 28, 2005 letter from Dr. Steadman who indicated that appellant’s August 22 to August 29, 2005 absence was due to acute stress associated with his supervisor and other employees.² Gary D. Hart, a postal service employee and union representative, submitted a July 8, 2006 statement on appellant’s behalf. During a 17-year career, Mr. Hart had seen numerous employees succumb to stressful situations similar in nature to what appellant went through. He spoke of incompetent supervisors and a lack of communication between employees and managers. Mr. Hart also commented on the importance of safety in the workplace and the shared responsibility between management and employees in creating a safe working environment. He opined that the isolated incident that appellant experienced caused his temporary stress.

By decision dated November 3, 2006, the Office denied modification of the October 26, 2005 decision.

LEGAL PRECEDENT

To establish that he sustained an emotional condition causally related to factors of his federal employment, a claimant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to his condition;

¹ Appellant stopped working on August 17, 2005 and returned to work August 29, 2005.

² Additionally, appellant submitted another copy of Dr. Stedman’s previously submitted October 4, 2005 report.

(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.³

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 hold a particular position.⁴ 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.⁵ 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.⁶

ANALYSIS

Appellant alleged that Mr. Wear's August 17, 2005 instructions to remove his toolbox from a certain location at work caused his emotional condition. Assigning work and monitoring performance are administrative functions of a supervisor and an emotional reaction to a work assignment is generally not be compensable under the Federal Employees' Compensation Act.⁷ However, if there is proof that the supervisor erred or acted abusively in discharging his duties, an emotional reaction under these circumstances may be compensable.⁸ Similarly, complaints about the manner in which a supervisor performs his duties generally fall outside the coverage of the Act.⁹ This principle recognizes that a supervisor generally must be allowed to perform his duties and employees will, at times, dislike the actions taken. But mere disagreement or dislike of a supervisory action will not be actionable, absent evidence of error or abuse.¹⁰

Appellant claimed that Mr. Wear's direction to move the toolbox was not only retaliatory, but also violated a "safety requirement." However, appellant did not provide any evidence to support either contention. On its face, there appears to be nothing inherently unsafe

³ See *Kathleen D. Walker*, 42 ECAB 603 (1991).

⁴ *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ See *Kathleen D. Walker*, *supra* note 3. Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

⁶ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁷ *Lori A. Facey*, 55 ECAB 217, 224 (2004).

⁸ *Id.* at 225.

⁹ *Marguerite J. Toland*, 52 ECAB 294, 299 (2001).

¹⁰ *Id.*

about moving a toolbox. As to the alleged retaliatory animus, appellant did not provide any details about his prior whistleblower activities that purportedly motivated Mr. Wear to order him to remove the toolbox. As previously noted, a claimant must establish a basis in fact for the claim by supporting his allegations with probative and reliable evidence.¹¹ In this instance, appellant failed to substantiate his allegations. For this reason, he has not established error or abuse on the part of his supervisor.

CONCLUSION

Appellant failed to establish that he sustained an emotional condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the November 3, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 8, 2007
Washington, DC

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

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

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

¹¹ *Kathleen D. Walker, supra* note 3.