

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

C.S., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Richmond, CA, Employer)

**Docket No. 07-2113
Issued: February 5, 2008**

Appearances:
Appellant, 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 August 14, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' July 20, 1997 merit decision denying his emotional condition claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an emotional condition in the performance of duty.

FACTUAL HISTORY

On June 13, 2007 appellant, then a 51-year-old retired mail carrier, filed a claim alleging that he sustained "illusion reality, hypertension [and] irregular heart beats" due to stress related to an "administration mistake" made by the Department of Labor.¹ He asserted that the Department of Labor indicated in an October 27, 2005 letter that his case file was before the

¹ In 1996 appellant retired from federal service on disability retirement.

Employees' Compensation Appeals Board; however, a September 26, 2006 letter advised that the Board did not have a pending appeal for him.²

Appellant submitted various letters, dated between October 2005 and June 2007, produced by Office officials, congressional representatives, a union representative and an employing establishment benefits specialist. The letters mostly addressed his inquiries regarding the status of his compensation claim. In an October 27, 2005 letter, an Office official advised appellant that his case was before the Board pending its review of the case. The official provided him with an address to send inquiries regarding the status of the Board's review. In a September 26, 2006 letter, the Clerk of the Board stated that the Board did not presently have an appeal pending for appellant's case. He stated, "If you have received a recent adverse decision from the [Office] and it is within a year, then you have a right to appeal that decision to the Board."

In a July 2, 2007 letter, appellant indicated that he suffered from mental illness, hypertension and irregular heart beats. He submitted documents relating to his use of medication for hypertension. In a June 22, 2007 report, an attending physician indicated that appellant was being treated for several conditions, including cardiomyopathy, unstable angina, chest pain and osteoarthritis.

In a July 20, 2007 decision, the Office denied appellant's emotional claim on the grounds that he did not establish any compensable employment factors.

LEGAL PRECEDENT

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 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 specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.³ 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.⁴

² In a March 23, 2007 letter to the Secretary of the Department of Labor, appellant stated that he would like to file a "new claim for stress." He asserted that an October 27, 2005 letter of the Department of Labor was revealed to be an "administrative mistake" by another letter from late 2006. In a May 2, 2007 letter to the Secretary of the Department of Labor, appellant stated that he was filing a claim for "injuries of stress and illusion reality" that he "sustained from being the beneficiary of the practical joke, perpetrated by the Department of Labor administrative personnel letter dated October 27, 2005."

³ 5 U.S.C. §§ 8101-8193.

⁴ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

Appellant 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.⁵ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁶

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.⁷ 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.⁸

ANALYSIS

On June 13, 2007 appellant filed a claim alleging that he sustained mental and cardiac problems because the Department of Labor mishandled his compensation claim by giving him improper information about the claim beginning in 2006. He had been retired from the employing establishment since 1996. In a July 20, 2007 decision, the Office denied appellant's emotional condition claim on the grounds that he did not establish any compensable employment factors. The Board must, thus, initially review whether appellant has established an employment factor under the terms of the Act.

Appellant related his claimed conditions to an "administration mistake" made by the Department of Labor. He asserted that the Department of Labor indicated in an October 27, 2005 letter that his case file was before the Board but that a September 26, 2006 letter indicated that the Board did not have a pending case for him. Regarding appellant's allegations that the Department of Labor mishandled his compensation claim, the Board has found that the development of any condition related to such matters does not arise in the performance of duty. The processing of compensation claims bears no relation to an employee's regular or specially assigned duties.⁹ Appellant has not advanced an argument which would show that the Department of Labor's handling of his compensation claim would relate to his regular or specially assigned duties. Therefore, appellant has not established an employment factor regarding the handling of his compensation claim.

⁵ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁶ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

⁷ *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁸ *Id.*

⁹ *See Sandra Davis*, 50 ECAB 450, 461 (1999); *George A. Ross*, 43 ECAB 346, 353 (1991).

For the foregoing reasons, appellant has not established any compensable employment factors under the Act and, therefore, has not met his burden of proof in establishing that he sustained an emotional condition in the performance of duty.¹⁰

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 Office of Workers' Compensation Programs' July 20, 1997 decision is affirmed.

Issued: February 5, 2008
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

¹⁰ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; *see Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).