

my job and the sense that I can never do enough to satisfy my job responsibility to management. The stress I experience at work has increased to the point where I have difficulty managing my emotions and am afraid most days that something or [?] could happen that I could lose control. For the last 10 months I've used the mental health services provided to me by the Veterans Administration to try to work on this problem but find that I've not been successful at finding a solution for these issues. In a[n] effort to ease or correct the problem I want to explore the possibility of disability as a solution for my stress."

Appellant stated that he had a very hard time 12 to 18 months coping with the work environment. "There are no particular factors or individuals that caused the problem," he stated. He blamed instead "the general direction" that management was changing. Appellant stated that he was repeatedly assaulted by the statement or insinuation by supervisors that the smallest of infractions relative to the new methods of doing his job would result in some form of discipline. He explained that a number of practices over the past five years supported his claim of excessive surveillance, control and intimidation, including the Bar Code Clock Scanning System, the "one-case" system for placing mail for order and delivery and the "four bundle" system. Appellant stated that he was in a "Catch-22": "In other words, I was being told, do it our way, we know your productivity will drop, but be advised that you will be disciplined if your productivity drops." He added:

"This atmosphere which emerged in the Postal Service, specifically the Jenkintown Post Office over the last five years has made it more not only difficult, but now impossible for me to return to work, knowing that I would be under constant surveillance and that every aspect of what I did, every day, would be subject to scrutiny, criticism and possible punishment; and would certainly involve repeated confrontations with supervisors. Again, over this period, I was in constant fear of having such confrontations and always felt they had the potential to escalate into physical violence. Frequent shouting matches occurred and physical contests were avoided only by me leaving the Post Office."

Dr. Drew Kerr, appellant's psychologist, wrote as follows :

"Since his return from Vietnam, [appellant] has chronically struggled with combat-related PTSD. The disorder is an anxiety disorder that is characterized by the reexperiencing of an extremely traumatic event accompanied by symptoms of increased arousal and by avoidance of things associated with the trauma. [His] problems are of a type and severity where they interfere with his forming and maintaining interpersonal relationship and have led to his having serious conflicts with those he relates to, including family and coworkers.

"[Appellant] describes that he's been increasingly reactive to work-related stressors to the point where he's needed to direct much of his energy and attention to self[-]management and control. He's found it difficult to report to and remain at work more days than not and had problems functioning on the job. [He] reported that on May 5, 2006 he filed a claim for a work-related psychiatric disability and that he's unable to effectively perform his job duties."

John Wechsler, appellant's supervisor acknowledged that appellant had spoken about his difficulty dealing with everyday happenings inside and outside of work. He stated:

“While at work [appellant] would perform his duties and complete his assignments in a timely manner. [He] got along very well with his customers and they were happy with the service he provided. [Appellant] would keep to himself while at work and was always conscientious about doing a good job. From time to time [he] would express his discontent with postal policy and would express how he thought things should be done. The management at the [employing establishment] had a good working relationship with [appellant] and there were no apparent problems that would lead us to believe differently.”

Mr. Wechsler stated that there were deadlines, travel and heavy volumes of mail at times, which could create a degree of stress. Appellant was informed on a regular basis that he was doing a fine job. “I would regularly inform [him] to take it easy on himself. [He] would get upset over the policies of the [employing establishment] and how they (PO) should leave things alone because things are working fine the way they are.” Mr. Wechsler added that there were no extra workloads put on appellant and staffing shortages did not impact him because he was not on the overtime-desired list. He noted that appellant would perform his duties in accordance with expectations: “There were no performance or conduct problems with [appellant]. At times [he] would get upset over unknown reasons and have to go on the platform to take a break from work so he could regroup the return back to work.”

Appellant submitted a September 1, 2006 decision from the Department of Veteran Affairs, which found that his PTSD, which had been 30 percent disabling, was 100 percent disabling effective March 17, 2006.

In a decision dated November 9, 2006, the Office denied appellant's claim for compensation. The Office found that all the factors he implicated were administrative matters which were not compensable absent proof of error or abuse. The Office found no hard evidence that his supervisors were abusive or erred in scrutinizing his movements or enforcing policies. In a decision dated June 13, 2007, an Office hearing representative affirmed the November 9, 2006 decision.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.¹ “Disability” means the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury.²

¹ 5 U.S.C. § 8102(a).

² 20 C.F.R. § 10.5(f) (1999).

Workers' compensation does not cover each and every illness that is somehow related to employment.³ An employee's emotional reaction to an administrative or personnel matter is generally not covered. Thus, the Board has held that disciplinary matters,⁴ investigations,⁵ determinations concerning the work environment⁶ and the monitoring of an employee's work by a supervisor⁷ are not compensable factors of employment.

Nonetheless, error or abuse by the employing establishment in an administrative or personnel matter may afford coverage.⁸ But perceptions alone are not sufficient to establish entitlement to compensation. To discharge his burden of proof, a claimant must establish a factual basis for his claim by supporting his allegations with probative and reliable evidence.⁹

ANALYSIS

Appellant attributed the aggravation of his PTSD to a change in direction by management and to new policies that he believed lowered productivity and increased his risk of discipline. However, his emotional reaction to such administrative matters is not compensable. There is an exception where management erred or acted abusively, but appellant has submitted no proof of administrative error or abuse.

Appellant noted that it was impossible for him to return to work knowing he would be under constant surveillance and that every aspect of what he did would be subject to scrutiny, criticism and possible discipline. As noted, however, the monitoring of an employee's work is not compensable absent evidence of error or abuse. That is management's prerogative or obligation and it is not a matter for workers' compensation unless proof of administrative error or abuse appears in the record. Appellant alleged "excessive" surveillance, control and intimidation, but he submitted no evidence to substantiate his allegations. His perception of excessiveness and intimidation is not enough to establish a factual basis for his claim. Without evidence to establish administrative error, appellant has not shown that his claim falls within the scope of workers' compensation.

Evidence of a disability rating from the Department of Veterans Affairs has no bearing on the issue raised by appellant's claim, namely, whether he sustained an injury in the performance of duty. The VA found appellant 100 percent disabled effective March 17, 2006 due to residuals of his accepted PTSD. This determination by the VA is not binding on the Office of proof that

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Barbara J. Nicholson*, 45 ECAB 803 (1994); *Barbara E. Hamm*, 45 ECAB 843 (1994).

⁵ *Sandra F. Powell*, 45 ECAB 877 (1994).

⁶ *Merriett J. Kauffman*, 45 ECAB 696 (1994).

⁷ *Daryl R. Davis*, 45 ECAB 907 (1994).

⁸ *Margreat Lublin*, 44 ECAB 945 (1993). See generally *Thomas D. McEuen*, 42 ECAB 566 (1991), *reaff'd on recon.*, *Thomas D. McEuen*, 41 ECAB 387 (1990).

⁹ *Ruthie M. Evans*, 41 ECAB 416 (1990).

his condition was caused or contributed to by a compensable factor of his federal civilian employment.¹⁰ As there is no such proof, the Board will affirm the Office decisions denying his claim for benefits.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an emotional injury in the performance of duty. There is no proof that management erroneously or abusively implemented the policies and direction to which appellant attributes his condition.

ORDER

IT IS HEREBY ORDERED THAT the June 13, 2007 and November 9, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: January 8, 2008
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

¹⁰ Decisions of other federal agencies regarding disability are not binding on the Office. The standards for establishing a work-related disability under the Act are not the same as those set for the VA. See *Beverly R. Jones*, 55 ECAB 411 (2008); *Freddie Mosley*, 54 ECAB 255 (2002).