

leave until further notice pending investigation of delayed mail. Appellant noted being escorted out of the employing establishment's facility. He did not return to work.

On June 19, 2008 the Office advised appellant of the factual and medical evidence necessary to establish his claim. In particular, it requested that appellant describe the employment-related conditions he believed contributed to his illness. The Office also requested a medical report from a physician with a diagnosis and opinion on the cause of his condition.

In support of his claim, appellant submitted a statement dated June 19, 2008 in which he stated that on May 5, 2008 he was escorted out of the employing establishment by his manager, Daniel Reyes, who alleged that he delayed mail on May 3, 2008. Appellant asserted that all of the mail from that day was delivered, despite the fact that he was not scheduled to work that day. He further asserted that, after being escorted out, he went into chronic depression with uncontrollable episodes of anxiety attacks, became afraid of hurting himself and others, could not function mentally or physically and became suicidal. Appellant also noted enrolling in outpatient treatment. He further asserted that, when he submitted his Form CA-1 to Mr. Reyes on June 4, 2008 he insisted that appellant could not submit the form. Appellant noted that Mr. Reyes subsequently signed the notice of receipt after making telephone calls and threw the form on the table toward him in a hostile manner. He also alleged that Mr. Reyes refused to provide him with a Form CA-17 that he had requested during their meeting.

In a June 27, 2008 letter, the employing establishment controverted appellant's claim. The employing establishment stated that it was exercising a proper administrative function when it placed him on administrative leave for disciplinary reasons after he provided a false statement to a postal service paralegal on February 15, 2008 and he failed to ensure an accurate report of six containers of delayed mail on May 2 and 3, 2008. The employing establishment provided a detailed explanation justifying the reasons for appellant's administrative leave in a June 23, 2008 notice of proposed termination. In an undated statement, Mr. Reyes detailed the events regarding the containers of delayed mail. He indicated that on May 3, 2008 he discovered six containers of parcels that were coded for delivery that day. Mr. Reyes noted that appellant was the manager on duty when he discovered the containers. When he questioned why the mail was still at the facility, appellant indicated that he did not see it and would have the containers of mail delivered on the following day.

Appellant submitted several medical reports and duty status reports from Dr. Timothy Baker, a Board-certified psychiatrist, who treated appellant for major depressive disorder, PTSD and alcohol abuse.

In a letter dated July 14, 2008, Mr. Reyes stated that he placed appellant on administrative leave on May 5, 2008 pending investigation of six containers of mail discovered at the employing establishment on May 3, 2008. He noted personally escorting appellant to the exit door, but did not witness any alleged stress, headaches, stomach cramps, pinches nerves around the neck, chest and shoulder pains, PTSD, chronic depression or anxiety attacks. Mr. Reyes stated that appellant reported to his office on June 4, 2008 with a Form CA-1 at which time he called the human resources department to verify acceptance of the form. Upon finishing his call, he asserted that he completed the acknowledgement portion of the form and placed it on the table beside appellant without throwing the form in a hostile manner at which time appellant

picked up the form and left. Mr. Reyes did not recall appellant's request for a Form CA-17 during their meeting. He stated that appellant requested a Form CA-17 through e-mail on July 3, 2008. Mr. Reyes advised that he sent the requested form to appellant with a delivery confirmation.

Appellant continued to submit medical reports and duty status reports from Dr. Baker.

By decision dated September 30, 2008, the Office denied appellant's claim finding that he had not established any compensable factors of employment.

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 or her 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.¹ 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 or her frustration from not being permitted to work in a particular environment or to hold a particular position.²

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected his employment.³ This burden includes the submission of a detailed description of the employment conditions or factors which he believes caused or adversely affected the condition or conditions for which he claims compensation.⁴

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. 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.⁵

¹ 5 U.S.C. §§ 8108-8193; *see Lillian Cutler*, 28 ECAB 125 (1976).

² *Cyndia R. Harrill*, 55 ECAB 522 (2004).

³ *Robert Breeden*, 57 ECAB 622 (2006); *Pamela R. Rice*, 38 ECAB 838 (1987).

⁴ *Effie O. Morris*, 44 ECAB 470 (1993).

⁵ *See Harrill*, *supra* note 2.

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under the Act. This includes matters involving the training or discipline of employees. However, the Board has held that where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded. In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of the case to determine whether the employing establishment acted reasonably.⁶

ANALYSIS

In the present case, appellant alleged that he sustained an emotional condition as a result of several employment incidents. The Board must, therefore, initially review whether the alleged incidents are compensable under the terms of the Act.

Appellant alleged that the employing establishment engaged in improper disciplinary actions by placing him on indefinite administrative leave pending investigation of delayed mail and escorting him off the employing establishment's premises. He also asserted that all of the mail from May 5, 2008 was delivered even though he was not scheduled to work. These claimed events pertain to disciplinary matters and investigations by the employing establishment, and are administrative and personnel matters that are functions of the employer, not the duties of the employee.⁷ An administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.⁸ In the present case, statements from Mr. Reyes, appellant's supervisor, explained that appellant was placed on administrative leave for disciplinary reasons consisting of two separate incidents: providing a false statement to a postal service paralegal on February 15, 2008 and failing to ensure accurate report of six containers of delayed mail on May 2 and 3, 2008. He also explained that, when he questioned appellant about the containers of mail found at the employing establishment on May 5, 2008, appellant stated that he had not noticed the containers of mail and would have them delivered on the following day. The Board finds that Mr. Reyes explained the reasons for his actions in light of the situation that he discovered. The evidence does not support that he acted unreasonably in the administrative matter of disciplining appellant regarding this matter.

Appellant also alleged that Mr. Reyes would not accept his Form CA-1, but subsequently threw the form onto the table towards him in a hostile manner after signing it. He also asserted that Mr. Reyes refused to provide him with a Form CA-17 during their meeting on June 4, 2008.

⁶ *Charles D. Edwards*, 55 ECAB 258 (2004).

⁷ *See Gregory N. Waite*, 46 ECAB 662 (1995) (disciplinary matters concerning an oral reprimand, discussions or letters of warning for conduct pertain to actions taken in an administrative capacity); *Ruth S. Johnson*, 46 ECAB 237 (1994) (where the Board has held that investigations and similar actions, which are an administrative function of the employing establishment, that do not involve an employee's regularly or specially assigned employment duties are not considered to be employment factors).

⁸ *Edwards*, *supra* note 6.

However, Mr. Reyes denied acting improperly as he noted having to call the human resources department to verify acceptance of the form before he could sign it. He further explained that he placed, rather than threw, the signed Form CA-1 on the table near appellant at which time he took the form and left. Mr. Reyes also stated that he did not recall appellant requesting a Form CA-17 during their meeting. However, he noted that appellant requested the form *via* e-mail subsequent to their meeting, whereby Mr. Reyes sent the requested form with a delivery confirmation. The Board has generally held that an employee's complaints concerning the manner in which a supervisor performs his duties as a supervisor or the manner in which a supervisor exercises his supervisory discretion fall, as a rule, outside the scope of coverage provided by the Act. This principle recognizes that a supervisor or manager in general must be allowed to perform their duties that employees will at times dislike the actions taken, but that mere disagreement or dislike of a supervisory or management action will not be actionable, absent evidence of error or abuse.⁹ Furthermore, the Board has held that matters pertaining to the processing of compensation claims are an administrative function of the employer and not a duty of the employee.¹⁰ Mr. Reyes fully explained the matter involving the filing of appellant's claim and appellant has not submitted any evidence to support his allegation that Mr. Reyes acted unreasonably in this matter. The Board finds that the evidence does not support that Mr. Reyes acted unreasonably in these matters.

For the foregoing reasons, appellant has not established any compensable factors of employment. Consequently, it is not necessary to review the medical evidence.¹¹ Appellant did not meet his burden of proof in establishing his claim for stress-related conditions.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an emotional condition in the performance of duty.¹²

⁹ C.S., 58 ECAB ____ (Docket No. 06-1583, issued November 6, 2006) (mere disagreement or dislike of a supervisory or management action will not be actionable, absent evidence of error or abuse).

¹⁰ See also *David C. Lindsey*, 56 ECAB 263 (2005) (although the handling of a compensation claim is generally related to the employment, it is an administrative function of the employer and not a duty of the employee and thus, not compensable absent evidence of error or abuse by the employer).

¹¹ See *Margaret S. Krzycki*, 43 ECAB 496 (1992) (where a claimant has not established a compensable employment factor, the Board has held that it need not address the medical evidence of record).

¹² Appellant submitted new evidence on appeal. However, the Board may only review evidence that was in the record at the time the Office issued its final decision. 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated September 30, 2008 is affirmed.

Issued: August 12, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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