

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

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| V.M., Appellant |) | |
| |) | |
| and |) | Docket No. 10-809 |
| |) | Issued: November 8, 2010 |
| U.S. POSTAL SERVICE, POST OFFICE, |) | |
| Pico Rivera, CA, Employer |) | |
| |) | |

Appearances:
Thomas Martin, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 25, 2010 appellant filed a timely appeal from a July 30, 2009 decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant established a physical or emotional condition causally related to compensable work factors.

FACTUAL HISTORY

On June 7, 2006 appellant, then a 52-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained anxiety and stroke as a result of her federal employment. She first became aware of the condition on January 8, 2005 and of its relationship to her employment on April 17, 2006. In an accompanying narrative statement, appellant noted that she had to work long hours because of the size and difficulty of her mail route. She stated she was "significantly overworked" and was hospitalized in 1996 for hypertension. Appellant

stated that the employing establishment made an analysis and added even more difficulty to the route. On January 8, 2005 she did not feel well but was ordered to continue working. Appellant was hospitalized on January 9, 2005. She had been working hard for one week prior to hospitalization.

The record contains hospital reports indicating appellant was admitted on January 9, 2005 with symptoms of slurred speech. A hospital discharge summary diagnosed an acute ischemic cerebrovascular accident. In a report dated April 17, 2006, Dr. Manouchehr Esmaili stated appellant had recently suffered a stroke and she was under a lot of stress at work.

In a letter dated October 4, 2006, an employing establishment supervisor stated appellant's route was an eight-hour assignment and she was also on the overtime desire list. The supervisor stated that appellant used her electronic card to log in and off duty, that she was never denied leave and on January 8, 2005 that she worked eight hours and nearly two hours of overtime.

By decision dated December 11, 2006, the Office denied the claim for compensation. It found that the implicated work factors were generally and vaguely alleged and that the medical evidence was insufficient to establish anxiety or stroke due to her federal employment.

Appellant requested a hearing before an Office hearing representative, which was held on May 21, 2007. At the hearing, she stated that it took 10 hours for her to complete her assigned route. Appellant addressed the quantity of mail, but was told to deliver it the best she could. She was admitted to a hospital for hypertension several times and provided her supervisor a list of medications that "said on there, no driving" but she continued to deliver mail. Appellant alleged that in 2001 a physician had informed the employing establishment of a blood test that showed low hemoglobin levels and that she should stop delivering mail and seek treatment; the supervisor had appellant finish the route.

In an August 9, 2007 decision, an Office hearing representative affirmed the December 11, 2006 decision. The hearing representative found the medical evidence was insufficient to establish her stroke as causally related to federal employment.

In a letter dated August 7, 2008, appellant requested reconsideration of her claim. In a report dated August 5, 2008, Dr. Jens Dimmick, an internist, provided a history in which appellant alleged that her supervisor had covered up the overtime she had to work and would clock her out while still on the route. He provided results on examination and diagnosed hypertension and stroke secondary to hypertension. Dr. Dimmick stated "that the stresses of the long hours and the deceitful way her supervisor handled her hours led to worsening in her blood pressure and the development of her stroke. The patient's stroke and attendant disability is directly related to the long hours and the stresses that she suffered in her occupation as a postal worker."

By decision dated July 30, 2009, the Office denied modification of the August 9, 2007 decision. It found that there was a compensable work factor in that appellant alleged stress due to the pressure of trying to perform her regular work duties, but no other compensable factors

were established. With respect to the medical evidence, the Office found it did not establish a causal relationship between a diagnosed condition and the compensable work factor.

LEGAL PRECEDENT

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 factors of his federal employment.¹ This burden includes the submission of detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.² A claimant must also submit rationalized medical opinion evidence establishing a causal relationship between the claimed condition and the established, compensable work factors.³

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 illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.⁴

A reaction to an administrative or personnel matter is generally not covered as it is not related to the performance of regular or specially assigned duties.⁵ Nevertheless, if the evidence demonstrates that the employing establishment erred, acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁶

ANALYSIS

In the present case, appellant addressed her regularly assigned work duties. She stated that her mail route was difficult and she felt under pressure to complete it in eight hours and often had to use overtime. The performance of her regular or specially assigned work duties was

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

² *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

³ See *Bonnie Goodman*, 50 ECAB 139, 141 (1998).

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

⁵ See *Brian H. Derrick*, 51 ECAB 417, 421 (2000).

⁶ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

accepted as a compensable work factor. The Office found she had established a compensable work factor in this regard.

As to other allegations, the evidence of record did not substantiate any additional compensable work factors. Appellant raised allegations of error by the employing establishment without submitting supporting evidence. An allegation of error or abuse by the employing establishment in an administrative matter does not itself establish a compensable work factor. There must be a detailed description of the incidents and probative evidence establishing error or abuse.⁷ Appellant referred to a list of medications provided to a supervisor in 2001 that indicated she could not drive, without providing a detailed description of the circumstances or any evidence to support a finding of error or abuse by the employing establishment. With respect to personnel matters such as leave, no probative evidence of error or abuse was submitted in this case.

The Board notes that Dr. Dimmick reported an allegation that appellant's supervisors attempted to cover up her use of overtime by having someone clock appellant out while she was still on her route. Appellant did not submit a narrative statement discussing this allegation in detail, or explaining when and how often it occurred. The employing establishment had indicated in its October 4, 2006 response that appellant was responsible for recording her work hours. The Board finds that no probative evidence of error or abuse was submitted.

Since a compensable work factor was established, the medical evidence is considered to determine if a diagnosed condition is established as causally related to the compensable work factor.⁸ Appellant alleged that she suffered anxiety, aggravation of hypertension and an ischemic incident in January 2005 that she attributed to her federal employment. As noted, appellant's burden of proof is to submit rationalized medical evidence on causal relationship between a diagnosed condition and the compensable work factor. A rationalized medical opinion is one based on a complete factual and medical background and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the employment factor.⁹ Dr. Dimmick provided a history that included appellant's allegations of error which have not been established as factual. In addition, he offered only a brief opinion that long hours and the deceitful actions of her supervisors contributed to hypertension and a stroke. The actions of supervisors have not been established as compensable. Dr. Dimmick did not provide medical rationale to support an opinion that the specific compensable work factor in this case contributed to a diagnosed condition. He did not provide any negative opinion in which he reviewed appellant's history of hypertension, prior medical treatment or address how such factors influenced her stroke in 2005. Dr. Dimmick's report in 2008 is some three years after appellant's hospitalization and fails to review her history of medical treatment prior to that time.

It is appellant's burden of proof to establish her claim. For these reasons, the Board finds appellant did not meet her burden of proof in this case.

⁷ See *Pamela D. Casey*, 57 ECAB 260 (2005).

⁸ *Charles D. Gregory*, 57 ECAB 322 (2006).

⁹ *Vitaliy Y. Matviiv*, 57 ECAB 193 (2005).

CONCLUSION

The Board finds appellant did not establish a physical or emotional condition causally related to a compensable factor of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 30, 2009 is affirmed.

Issued: November 8, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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