



condition. The Board found that appellant did not submit sufficient medical evidence to establish that his claimed emotional condition was causally related to the compensable work factor that was found in his claim. The facts and circumstances of the case up to that point are set forth in the Board's prior decision and incorporated herein by reference.<sup>2</sup>

There was pertinent development prior to the Board's decision which is relevant to the present appeal before the Board. Relevant factual information consisted of a statement from appellant alleging that he was harassed and subject to reprisal by management and coworkers. In June 1997, his postmaster improperly accused him of throwing out mail and violated his privacy. In August 2003, Ms. Rueckert, a coworker, accused appellant of rolling up windows in her mail truck and verbally assaulted her. In August 2003, while appellant prepared a diagram of the postal parking lot, he noted being approached by Ms. Rueckert who baited him. He alleged that he was forced to resign his position as an on-the-job trainer, safety captain and welfare committee member because of the hostile situation with Ms. Rueckert. On July 26, 2004 a union steward informed appellant that Ms. Rueckert spread rumors that he scratched and dented her car. Appellant alleged that on June 9, 2004, Ms. Rueckert threw a red book at him. On August 22, 2003 after requesting financial and insurance information from Sheree Coates, his manager, she held a meeting for all employees and stated that she would not be taken to task for threats of suicidal violence. Appellant believed her comments were directed at him. He stated that, on August 22, 2003, Ms. Coates improperly referred him for a confidential interview for disrupting the workroom floor and, on April 15, 2005, threatened discipline when he advised her that he was leaving work due to job stress. On April 15, 2005 Brent Jones, his supervisor, intimidated and harassed him by instructing him to distribute an unspecified amount of swing mail because he had 1 hour and 45 minutes of downtime. Appellant contended that Mr. Jones was improperly estimating his work time based on the delivery operations information system (DOIS) which was rejected as the sole source of route time determination. He alleged that management did not notify him of all biddable open craft positions. Appellant stated that Ms. Coates coerced him to reveal the name of the coworker he saw reviewing a confidential file. He noted that Ms. Rueckert placed cardboard around his case on August 13, 2003 that caused stress. Appellant was later questioned by a threat assessment investigation team about the incident and became upset.

Appellant submitted an August 22, 2005 report from Dr. Norman Reichwald, a Board-certified psychiatrist, who diagnosed major depressive disorder and panic disorder. He reported that harassment by another coworker caused his depression. In reports dated September 22 to November 21, 2005, Dr. Reichwald treated appellant for depression due to workplace stress. He opined that appellant's injuries were due to workplace events, specifically mentioning a verbal altercation over work performance on April 15, 2005 as a contributing factor to his condition. On May 29, 2007 Dr. Reichwald, stated that the events August 13, 2003, specifically the placement of cardboard around appellant's workstation were recorded in his initial evaluation on August 22, 2005. He advised that the onset and cause of appellant's disabling symptomology coincided with the events of August 13, 2003. Dr. Reichwald diagnosed major depressive

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<sup>2</sup> Docket No. 08-2169 (issued August 4, 2009). In its decision the Board found that appellant had established one compensable employment factor, the improper placement of cardboard around his case on August 13, 2003 by Karin Rueckert, a coworker.

disorder, single episode in partial remission. On January 2, 2008 he opined that this was the result of ongoing patterns of work stress. Appellant reported that he was detained for 10 minutes on April 15, 2005, by his managers after requesting to go home sick and had requested to be notified of any job bids but received notification of only two bids. Dr. Reichwald opined that appellant's disabling symptoms were due to a pattern of harassment which included specific violations of his work contract and events described in prior reports.

In a May 13, 2008 decision, OWCP denied modification of a February 22, 2007 decision. In the February 22, 2007 decision, OWCP's hearing representative found that Ms. Rueckert's placement of cardboard around appellant's case on August 13, 2003 was a compensable work factor; however, the medical evidence did not establish that this caused his emotional condition.

Following the Board's August 4, 2009 decision, appellant requested reconsideration and submitted reports from Dr. Reichwald dated August 22, 2005 and February 9, 2006, previously of record. He also submitted a new June 4, 2010 report in which Dr. Reichwald noted being asked to address causal relationship. Dr. Reichwald advised that he reviewed prior reports and a description of injury. He noted that the events of August 13, 2003 were significant in triggering decompensation because of the meaning of this event in the context of the pattern of ongoing harassment. Dr. Reichwald further noted that the events combined in a synergistic manner such that the combined impact was greater than each event in isolation. He advised that this one event had a greater impact because of the context of the other events and was therefore a powerful stressor significant in and of itself to trigger a debilitating level of decompensation. Dr. Reichwald noted that the causation of disability cannot be apportioned between the various events due to the synergistic interrelationship between the events as to their contribution to decompensation and resulting disability but that the impact of the event of August 13, 2003 could not be taken out of context of other events. He further noted that there was nothing outside the context of the work environment to account for the debilitating symptomology experienced by appellant.

In a November 3, 2010 decision, OWCP denied modification of the prior decision.

### **LEGAL PRECEDENT**

To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>3</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,<sup>4</sup> the Board explained that there are distinctions to the type of employment situations giving rise to a

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<sup>3</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>4</sup> 28 ECAB 125 (1976).

compensable emotional condition arising under FECA.<sup>5</sup> 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 under FECA.<sup>6</sup> When an employee experiences emotional stress in carrying out his employment duties, and the medical evidence establishes that the disability resulted from his emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of his work.<sup>7</sup> 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 under FECA. 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 FECA. 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.<sup>8</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, 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.<sup>9</sup> If a claimant does implicate a factor of employment, OWCP 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, OWCP must base its decision on an analysis of the medical evidence.<sup>10</sup>

### ANALYSIS

Appellant established a compensable factor of employment on August 13, 2003 when Ms. Rueckert improperly placed cardboard around his case. On reconsideration, he submitted additional medical evidence and asserted that this evidence shows that his claimed conditions are employment related.

To establish his occupational disease claim, appellant must submit rationalized medical evidence establishing that his claimed conditions are causally related to the accepted

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<sup>5</sup> 5 U.S.C. §§ 8101-8193.

<sup>6</sup> See *Anthony A. Zarcone*, 44 ECAB 751, 754-55 (1993).

<sup>7</sup> *Lillian Cutler*, *supra* note 4.

<sup>8</sup> *Id.*

<sup>9</sup> See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

<sup>10</sup> *Id.*

compensable employment factor.<sup>11</sup> While the medical evidence shows that he has a diagnosed condition, it does not adequately explain how the employment factor caused or contributed to his emotional condition.

In a June 4, 2010 report, Dr. Reichwald noted that the events of August 13, 2003 were significant as to the trigger decompensation because of the meaning of this event in the context of the pattern of ongoing harassment. He further noted that the events combined in a synergistic manner such that the combined impact was greater than each event in isolation and the impact of the event of August 13, 2003 cannot be taken out of context of other events. Dr. Reichwald advised that this one event had a greater impact because of the context of the other events and was therefore a powerful stressor significant in and of itself to trigger a debilitating level of decompensation. He noted that the causation of disability cannot be apportioned between the various events due to the synergistic interrelationship between the events as to their contribution to decompensation and resulting disability.

Although Dr. Reichwald referenced the August 13, 2003 incident, he did not adequately explain how this factor caused or contributed to appellant's emotional condition. He opined that several events combined in a synergistic manner and the impact of the event of August 13, 2003 cannot be taken out of context of other events. However, the August 13, 2003 event is the only employment factor established in this case. Dr. Reichwald did not specifically explain how Ms. Rueckert's improperly placing cardboard around appellant's case caused or aggravated a diagnosed emotional condition.<sup>12</sup> He opined that he found nothing outside the work environment to account for appellant's symptoms; however, he did not provide medical rationale explaining the basis of this conclusory opinion. Although Dr. Reichwald referenced a synergistic manner in which different events led to appellant's conditions, he did not particularly explain the reasons why the August 13, 2003 cardboard incident combined with other specific events to cause or contribute to appellant's diagnosed conditions. Consequently, his June 4, 2010 report is insufficient to establish appellant's claim. Other reports from Dr. Reichwald that were submitted on reconsideration were previously of record and considered by OWCP.

The Board finds that appellant has not submitted rationalized medical evidence establishing that his claimed conditions are causally related to the compensable work factor.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that the evidence fails to establish that appellant sustained an emotional condition in the performance of duty.

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<sup>11</sup> See *J.C.*, 58 ECAB 594 (2007); *Cardwell*, *supra* note 3.

<sup>12</sup> *Id.*; see also *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 3, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 26, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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