

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

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C.S., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Grand Junction, CO, Employer )

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**Docket No. 13-1674  
Issued: December 24, 2013**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On July 1, 2013 appellant filed a timely appeal from a June 13, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant sustained an emotional condition in the performance of duty.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> 20 C.F.R. §§ 501.2(c) and 501.3(a). 20 C.F.R. § 501.2(c)(1). Appellant submitted additional evidence. The Board has no jurisdiction to review evidence that was not in the record at the time of OWCP's latest decision.

## **FACTUAL HISTORY**

On May 1, 2013 appellant, then a 59-year-old carrier technician, filed an occupational disease claim alleging that he sustained panic attacks as a result of management ordering him to complete Route 55 in eight hours without exception. He did not stop work.

By letter dated May 10, 2013, OWCP notified appellant that the evidence was currently insufficient to show that he experienced the employment factor identified as causing his condition and requested additional factual and medical information. It allotted him 30 days to respond with a detailed statement describing the incidents he believed caused his illness and a medical report addressing the cause of any emotional condition.

On February 22, 2012 an emergency department physician evaluated appellant after he experienced anxiety and an increased heart rate on that date at work.<sup>3</sup> He diagnosed an anxiety attack and atypical chest pain.

By decision dated June 13, 2013, OWCP denied appellant's emotional condition claim after finding that he did not submit sufficient evidence to factually establish the occurrence of the work factors claimed to have caused his condition.

On appeal, appellant maintained that a supervisor took him to the hospital on February 22, 2012 but did not file the appropriate paperwork. He submitted additional evidence.

## **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 FECA.<sup>4</sup> 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.<sup>5</sup>

A claimant must specifically identify the employment factors or incidents alleged to have caused his condition and establish a factual basis for his allegations with probative and reliable evidence.<sup>6</sup>

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<sup>3</sup> The name of the physician is not legible.

<sup>4</sup> *Supra* note 1; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>5</sup> *Gregorio E. Conde*, 52 ECAB 410 (2001).

<sup>6</sup> *See D.B.*, Docket No. 12-1131 (issued November 27, 2012); *Robert Breeden*, 57 ECAB 622 (2006).

## ANALYSIS

Appellant filed an occupational disease claim alleging that he experienced panic attacks because management instructed him to complete Route 55 within eight hours. He did not include with his claim a description of the specific employment factors which he believed caused his emotional condition. OWCP advised appellant in its May 10, 2013 letter that he should submit a detailed factual statement describing the employment incidents he alleged caused the emotional condition. Appellant did not submit the requested statement. A claimant's burden of proof includes providing detailed description of the employment factors or conditions which caused or adversely affected the condition or conditions for which compensation is claimed.<sup>7</sup> In response to OWCP's request, appellant submitted a medical report; however, in an emotional condition claim, a claimant must first establish a compensable work factor before the medical evidence is considered.<sup>8</sup> Consequently, he has failed to establish an essential element of his claim and thus has not met his burden of proof.<sup>9</sup>

On appeal, appellant alleged that a supervisor took him to the hospital on February 22, 2012 and promised that she would file the claims paperwork but then failed to do so.

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 and 20 C.F.R. §§ 10.605 through 10.607.

## CONCLUSION

The Board finds that appellant has not established that he sustained an emotional condition in the performance of duty.

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<sup>7</sup> See *Janet L. Terry*, 53 ECAB 570 (2002); *John Polito*, 50 ECAB 347 (1999).

<sup>8</sup> See *Richard Yadron*, 57 ECAB 207 (2005).

<sup>9</sup> See *R.P.*, Docket No. 12-1125 (issued December 11, 2012).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 13, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 24, 2013  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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