

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

C.D., Appellant)	
)	
and)	Docket No. 20-1445
)	Issued: October 3, 2022
U.S. POSTAL SERVICE, NORTH TEXAS)	
PROCESSING & DISTRIBUTION CENTER,)	
Coppell, TX, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 27, 2020 appellant filed a timely appeal from an April 30, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 has met his burden of proof to establish an emotional/stress-related condition in the performance of duty, as alleged.

FACTUAL HISTORY

On December 3, 2018 appellant, then a 55-year-old electronic technician, filed an occupational disease claim (Form CA-2) alleging that he developed hypertension, anxiety, and

¹ 5 U.S.C. § 8101 *et seq.*

stress due to factors of his federal employment. He noted that he first became aware of his claimed injury on April 17, 2018 and realized its relation to factors of his federal employment on September 17, 2018. Appellant did not stop work.

In a December 21, 2018 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of additional evidence needed and provided a questionnaire for his completion. In a separate letter of even date, OWCP also requested that the employing establishment provide information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations, appellant's electronic technician position description, and information regarding whether there were staffing shortages that affected appellant's workload or extra demands for any reason. It afforded both parties 30 days to respond.

Appellant submitted medical evidence, including a January 7, 2019 report from Dr. Chukwuma Osuagwu, a Board-certified internist, who noted that appellant reported an acute psychiatric episode at work on September 10, 2018. Appellant reported that his job could be dangerous due to the involvement of moving machine parts and that he had to keep up with an increasing workload due to other mechanics leaving his work facility. He also reported that he had started to fear dying by being "sucked into" a machine and that he had experienced a racing heartbeat. Dr. Osuagwu diagnosed anxiety disorder (unspecified), mental strain due to stress at work, somatoform disorder (unspecified), essential hypertension, multiple allergies, and diet-controlled hyperlipidemia. Appellant also submitted treatment notes of Dr. Osuagwu dated between December 3, 2018 and January 14, 2019.

Appellant also submitted a November 26, 2018 report from Michelle McConnell, a licensed professional counselor, who noted that appellant reported suffering an acute psychiatric episode at work on April 17, 2018. Ms. McConnell diagnosed anxiety disorder (unspecified), mental strain due to stress at work, somatoform disorder (unspecified), essential hypertension, multiple allergies, and diet-controlled hyperlipidemia.

By decision dated January 24, 2019, OWCP denied appellant's emotional condition claim, finding that he had not provided specific details regarding his claim and had not established a compensable employment factor. OWCP concluded, therefore, that the requirements had not been met for establishing that he sustained an injury as defined by FECA.

On February 18, 2019 appellant requested reconsideration of the January 24, 2019 decision.

Appellant submitted a February 18, 2019 statement in which he indicated that he had worked as an electronic technician for the employing establishment for 29 years.² He advised that he worked five days per week with his typical work hours being from 6:30 a.m. to 3:00 p.m. Appellant asserted that he was responsible for the day-to-day maintenance and operation of the employing establishment's mail processing machines. He advised that he carried out mail search tasks, which involved going into machines to search for stuck mail and retrieving the items from

² Appellant also provided some brief responses on the questionnaire sheet provided by OWCP on December 21, 2018. He noted that he had filed an Equal Employment Opportunity (EEO) claim that was ongoing in nature.

the machines. Appellant indicated that he performed both preventative and reactive maintenance tasks on mail processing machines, which included walking around robot machines, flat sorter machines, tray sorting machines, mail scanners, printers, and labelers, and installing parts and loading computer software as needed. He noted that he was required to handle high-voltage electronic machines, as well as machines with chains and sprockets. Appellant advised that his job required him to constantly pick up mail and to engage in kneeling, bending, stooping, crawling, climbing ladders, walking, and lifting/pushing/moving heavy machines weighing 100 pounds or more. He alleged that he was responsible for the daily maintenance of over 40 machines that required constant attention.

Appellant claimed that, when he began his shift each day, he was assigned machines on which he had to perform preventive maintenance taking between 1 and 10 hours, depending on the requirements of the machines. He asserted that he was also required to respond to up to 20 active maintenance calls per day, which involved addressing machines that were slowing down or stopping the mail process. Appellant claimed that his work unit typically had separate teams to address preventive maintenance and reactive maintenance issues, but that there currently was only one team to perform both tasks. He asserted that he had to work shorthanded and that his team was unable to finish the required maintenance tasks in a timely manner. Appellant claimed that he was often asked to work overtime due to short-handedness. He asserted that he often could not take his assigned breaks and lunches due to staffing shortages. Appellant further claimed, that for the past year, his blood pressure had been elevated and he had suffered increasing episodes of shortness of breath, heart palpitations, stress, and anxiety due to his “extreme work conditions.” He indicated that he had to leave work in September 2018 due to heart palpitations and shortness of breath, and that he later was diagnosed with depression and anxiety. Appellant asserted that he reported his health concerns to his acting supervisor in September 2018.

Appellant also submitted additional medical evidence, including several reports of Dr. Osuagwu from 2018 and 2019.

By decision dated June 20, 2019, OWCP denied modification of its January 24, 2019 decision.

On January 26, 2020 appellant requested reconsideration of the June 20, 2019 decision. He noted that he was providing additional information regarding his psychological evaluations. Appellant submitted additional medical evidence, including several reports of Dr. Osuagwu from 2018 and 2019.

Appellant also submitted an August 29, 2019 statement from a coworker, R.M., who indicated that the facility that he and appellant worked at began changing its staffing a number of years ago. He noted that the facility currently had 12 electronic technicians, but formerly had 28. R.M. asserted that the facility eliminated approximately 20 percent of its equipment, but also eliminated approximately 60 percent of its staffing. He asserted that this trend was exacerbated by the fact that the most experienced staff members were eliminated. R.M. noted that he observed that appellant was constantly assigned to multiple work tasks and was often asked to switch between different work tasks. Appellant also submitted an administrative document indicating that he was separated from the employing establishment effective August 30, 2019.

By decision dated April 30, 2020, OWCP denied modification of its June 20, 2019 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

To establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.⁶

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.⁷ 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.⁸

A claimant has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by employment factors.⁹ This burden includes the submission of a detailed

³ 5 U.S.C. § 8101 *et seq.*

⁴ *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *Gary J. Watling*, 52 ECAB 278 (2001).

⁵ 20 C.F.R. § 10.115(e); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *see T.O.*, Docket No. 18-1012 (issued October 29, 2018); *see Michael E. Smith*, 50 ECAB 313 (1999).

⁶ *See S.K.*, Docket No. 18-1648 (issued March 14, 2019); *M.C.*, Docket No. 14-1456 (issued December 24, 2014); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁷ *Lillian Cutler*, 28 ECAB 125 (1976).

⁸ *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁹ *B.S.*, Docket No. 19-0378 (issued July 10, 2019); *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

description of the employment factors or conditions which he or she believes caused or adversely affected a condition for which compensation is claimed, and a rationalized medical opinion relating the claimed condition to compensable employment factors.¹⁰

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.¹¹ 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, it must base its decision on an analysis of the medical evidence.¹²

ANALYSIS

The Board finds that this case is not in posture for decision.

On December 21, 2018 OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations, appellant's electronic technician position description, and information regarding whether there were staffing shortages that affected appellant's workload or extra demands for any reason. However, the employing establishment did not respond and OWCP did not make any further attempt to obtain the requested information from the employing establishment.

The Board has held that, while the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the factual evidence, particularly when such evidence is of the character normally obtained from the employing establishment or other government source.¹³

The Board therefore finds that the case must be remanded for further development. On remand, OWCP shall obtain from the employing establishment the information requested in its December 21, 2018 regarding appellant's emotional/stress-related condition claim. This shall include information regarding appellant's work duties and the staffing levels of his work unit. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's emotional/stress-related condition claim.

¹⁰ *P.B.*, Docket No. 17-1912 (issued December 28, 2018); *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

¹¹ *See O.G.*, Docket No. 18-0359 (issued August 7, 2019); *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

¹² *Id.*

¹³ *See M.H.*, Docket No. 19-0930 (issued June 17, 2020); *L.L.*, Docket No. 12-194 (issued June 5, 2012); *N.S.*, 59 ECAB 422 (2008).

CONCLUSION

The Board finds that the case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the April 30, 2020 merit decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded to OWCP for further proceedings consistent with this decision of the Board.

Issued: October 3, 2022
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board