

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOHN W. LYNCH and U.S. POSTAL SERVICE,  
POST OFFICE, Sun City, Ariz.

*Docket No. 97-1681; Submitted on the Record;  
Issued June 24, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

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

The Board has duly reviewed the case record and finds that appellant did not establish that he sustained an injury in the performance of duty.

To establish 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>1</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.<sup>2</sup>

Workers' compensation law is not applicable 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. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability

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<sup>1</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>2</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

comes within coverage of the Federal Employees' Compensation Act.<sup>3</sup> On the other hand, there are situations when an injury has some connection with the employment, but nonetheless does not come within the coverage of workers' compensation because it is not considered to have arisen in the course of the employment.<sup>4</sup>

The facts in this case indicate that on September 27 and October 28, 1996 appellant, then a 62-year-old letter carrier, filed claims, alleging that his stress was employment related because a previous claim had been disallowed,<sup>5</sup> and that the postmaster did not allow him to work in a limited-duty position when others were given limited-duty assignments. He stopped work on October 15, 1995.

In support of his claim, appellant submitted reports from his treating Board-certified family practitioner, Dr. Alfonso Puyana, who diagnosed depressed reaction and stress reaction, low back syndrome, chronic sprain of the right knee and degenerative osteoarthritis. In a May 29, 1996 report, he advised that appellant was stressed because he was unable to discuss problems with his postmaster. In a September 18, 1996 report, the doctor indicated that appellant was unable to work and needed to be retrained in a sedentary job or retired. In a December 4, 1996 report, Dr. Puyana advised that appellant injured his right knee in bicycle falls and was unable to continue route service because of significant pain, swelling and tenderness. The doctor indicated that appellant developed depression and deep anger toward the postmaster.

In a November 1, 1996 memorandum, the employing establishment indicated that work was assigned to appellant within his physical restrictions when it could be found for him, but that his restrictions were so severe, he often merely sat in a chair and waited until it was time to go home. The employing establishment indicated that when limited duty became unavailable at the employing establishment, attempts were made to find work for him at other offices, but none was available.

By letter dated November 12, 1996, the Office of Workers' Compensation Programs informed appellant of the type information needed to support his claim.

In a statement dated December 4, 1996, appellant reiterated his contentions, stating that the employing establishment was attempting to force him to retire. He also indicated that he had trouble getting the Office to pay for prescriptions and submitted statements regarding an Equal Employment Opportunities Commission (EEO) complaint and grievance. In a November 18, 1996 decision, appellant's EEO claim was rejected by the employing establishment. The record indicates that he appealed the decision.

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *Joel Parker, Sr.*, 43 ECAB 220 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>5</sup> The record indicates that appellant had filed numerous claims. In a February 24, 1997 letter, the Office indicated that appellant had sustained a number of employment-related physical injuries and, by decision dated July 25, 1995, the Office issued a decision that the medical evidence did not support a relationship between those injuries and appellant's current disability. The Office indicated that this decision had been affirmed by an Office hearing representative in a January 24, 1997 decision.

By decision dated January 2, 1997, the Office denied the claim, finding fact of injury not established. The Office noted that there was no medical evidence explaining what employment factors caused appellant's condition.

In a January 19, 1997 report, Dr. Puyana reiterated his diagnoses and advised that appellant was stressed because he could not return to work, that although he had been cleared for light duty, the employing establishment refused to place him on light duty.

By decision dated March 14, 1997, the Office modified the January 2, 1997 decision to indicate that appellant had not established that he sustained an emotional condition in the performance of duty. The Office found that appellant's frustration concerning the employing establishment's failure to find work within his limitations did not constitute error or abuse and noted that administrative matters are not in the performance of duty. The Office concluded that appellant failed to establish a compensable factor of employment.

Regarding appellant's contention that he was not afforded a limited-duty position when others were, as a general rule, a claimant's reaction to administrative or personnel matters falls outside the scope of coverage under the Act.<sup>6</sup> While an administrative or personnel matter will be considered an employment factor where the evidence discloses error or abuse on the part of the employing establishment,<sup>7</sup> mere perceptions are insufficient.<sup>8</sup> In determining whether the employing establishment erred or acted abusively, the Board determines whether the employing establishment acted reasonably.<sup>9</sup> Here the employing establishment indicated that appellant's light duty restrictions had been accommodated as long as work was available and then attempts were made to find him a position within his restrictions elsewhere. The fact that appellant filed grievances and EEO complaints, by itself, does not establish that work place harassment or unfair treatment has occurred.<sup>10</sup> In this case, the only EEO decision of record denied appellant's claim and there is nothing in the record to indicate resolution of his grievance.

Likewise, regarding appellant's contention that his stress was employment related because a previous claim had been disallowed, matters relative to the handling of a workers' compensation claim are administrative in nature and do not arise in the performance of duty,<sup>11</sup> as the processing of compensation claims bears no relation to appellant's regularly or specifically assigned duties.<sup>12</sup> Appellant has, therefore, failed to demonstrate error abuse on the part of the employing establishment regarding these administrative matters and they are not compensable

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<sup>6</sup> See *Michael L. Malone*, 46 ECAB 957 (1995).

<sup>7</sup> *Id.*

<sup>8</sup> See *Mary A. Sisneros*, 46 ECAB 155 (1994).

<sup>9</sup> See *Frederick D. Richardson*, 45 ECAB 454 (1994).

<sup>10</sup> See *Parley A. Clement*, 48 ECAB \_\_\_\_ (Docket No. 95-566, issued January 17, 1997).

<sup>11</sup> See *Bettina M. Graf*, 47 ECAB \_\_\_\_ (Docket No. 94-1970, issued August 1, 1996).

<sup>12</sup> See *Martha L. Watson*, 46 ECAB 407 (1995).

employment factors.<sup>13</sup> The Office thus properly found that appellant failed to establish that he sustained an emotional condition in the performance of duty.

The decisions of the Office of Workers' Compensation Programs dated March 14 and January 2, 1997 are hereby affirmed.

Dated, Washington, D.C.  
June 24, 1998

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>13</sup> See *Margreate Lublin*, 44 ECAB 945 (1993).