

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of HERBERT K. DEJOURDAN and DEPARTMENT OF THE ARMY,  
FORT DRUM, Watertown, NY

*Docket No. 98-1590; Submitted on the Record;  
Issued March 29, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

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

On November 13, 1996 appellant, then a 48-year-old material sorter and classifier, filed a claim for "stress" which he attributed to being "continuously asked to do more with less" due to downsizing, and to the resulting friction with customers and among coworkers. In a statement accompanying his claim form, he stated that he was told that he had coronary artery disease on February 2, 1993, that he underwent open heart surgery on August 26, 1994 and that he had been under continuing care by a licensed psychologist since October 21, 1996. Appellant stated that since the 10<sup>th</sup> Mountain Division started training at the employing establishment "the work load has increased but the number of employees in my section has not. We have more work with less warehouse space and less funding." He also cited, as sources of stress, the release of 14 warehousemen in October 1996, the uncertainty over whether he would continue to have a job, and the lack of warehouse space, which caused him to store new equipment and clothing outside and watch the weather destroy it.

In response to a request from the Office of Workers' Compensation Programs for further information on the factors of employment to which he attributed his condition, appellant stated in an April 14, 1997 letter that on October 1, 1996 he was moved into a new building that housed eight work sites that were previously housed in different buildings, that there was too much activity in too little space, that people were constantly in each other's way, that there was not enough space to adequately process the warehouse items, and that the work situation was causing him to have severe chest pain. Appellant also submitted medical evidence to support his claim.

In response to an Office request for information on appellant's allegations and on factors of his employment, the employing establishment's chief of its property control branch, in a letter dated February 11, 1997, stated:

"In the past [nine] months, the property control branch which includes the storage activity where [appellant] works has undergone major changes; the conversion to a new automated supply system and consolidating assets from approximately [eight] warehouses into a new general purpose warehouse. The consolidation included movement of these assets, rewarehousing and relocating while continuing to function and support our customers through receiving and issuing assets daily. Throughout the move to the new warehouse, new procedures under the new automated supply system have been implemented and all employees have been undergoing training. The consolidation of warehouses also meant the consolidation of the material handlers to a centralized storage facility where they are learning to work in a more cohesive environment. The movement of assets was conducted within a time period of approximately [six] months. While it may seem that the work load has increased, it has been due to the transitioning to the new warehouse and the implementation of the new automated supply system into the storage function. The standard army retail supply system-objective (SARSS-O) was introduced into the DOL [Directorate of Logistics] in March 1996. The functions of SARSS-O are time-sensitive in many processes to include storage management. DOL employees have not yet reached a full understanding of the system and a true transition period is estimated to be at least one year. Many material handlers are not computer literate and are leery of automated processes once accomplished manually.

"While the move to the new warehouse and transitioning to a new supply system all at once may seem overwhelming, the work load will resume to an even flow once procedures are worked out and employees are comfortable in new surroundings."

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"[Appellant] was concerned about the contracted personnel who were terminated October 1996. These personnel were never hired to relieve DOL employees of an increased work load. Contracted personnel were originally hired by Forces Command (FORSCOM) to process excess assets returned from 10<sup>th</sup> Mountain Division deployments to Somalia and Haiti to a centralized redistribution site at Fort Polk and Fort Benning.

"While there has been a reduction in the number of employees throughout the DOL and the Garrison because of downsizing the Army it is important to point out that the [s]torage section where [appellant] works has not lost a single position.

“[Appellant] is concerned about the lack of warehouse space. Under SARSS-O, assets move quicker to the supply system or DRMOs leaving a lesser time to store in DOL and relieving the lack of space issue.

“The consolidation of the materials handlers to the new warehouse has improved the efficiency of the storage operations and provides adequate manpower to complete the mission although it may seem that fluctuations in the workload at times seems overwhelming....

“[Appellant], prior to the move to the new warehouse, worked in a more quiet environment where customer turn-ins were accepted on an appointment basis. His new environment is more hectic because several functions are performed in the same area of the warehouse and turn-ins/issues are continual throughout the day.”

By decision dated June 2, 1997, the Office found that appellant had not cited and substantiated any compensable factors of employment, and therefore had not established that he sustained an injury in the performance of duty.

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 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. 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>1</sup> In cases involving emotional conditions,<sup>2</sup> the Board has held that until a claimant has identified incidents or occurrences that are alleged to have arisen out of the employment for compensation purposes, it is unnecessary to address the medical evidence.<sup>3</sup> When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment, the Office 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, the Office must base its decision on an analysis of the medical evidence.<sup>4</sup>

In the present case, the Office found that appellant had not cited and substantiated any compensable factors of employment. The Board finds, however, that appellant has implicated

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>2</sup> With regard to emotional condition cases in general, see *Lillian Cutler*, *supra* note 1.

<sup>3</sup> See *Richard J. Dube*, 42 ECAB 916 (1991). Regarding a claimant’s burden of proof in an emotional condition claim, see *Kathleen D. Walker*, 42 ECAB 603 (1991).

<sup>4</sup> *Id.*

and substantiated some compensable factors of employment. As verified by the employing establishment in its February 11, 1997 letter, the eight warehouses were consolidated into one general purpose warehouse during 1996, and the assets from these warehouses were moved to the new warehouse during a six-month period during which appellant and the other material handlers continued to receive and issue assets daily. At the same time, according to the employing establishment, a new computerized supply system was instituted to replace manual processes. The employing establishment acknowledged that these changes had made appellant's job "more hectic," that "it may seem that fluctuations in the work load at times seems overwhelming," and that the "work load will resume to an even flow once procedures are worked out and employees are comfortable in new surroundings," a transition it estimated would take about one year. As these changes were to appellant's regular assigned work duties or to requirements imposed by the employment, they can be covered under the Act, when substantiated by the employing establishment, as they were here.

Not covered under the Act is appellant's feeling of job insecurity stemming from his fear that his job might be contracted out or otherwise eliminated. The Board has held that fear of losing one's job or job insecurity is not sufficient to constitute a personal injury in the performance of duty.<sup>5</sup> Also not covered because it was not shown to have any effect on appellant's job duties was the termination of 14-contract employees in October 1996. The employing establishment stated that these employees were not hired to relieve employing establishment personnel of an increased work load, and that the storage section, where appellant worked, did not lose any employees.

The Board further finds that the medical evidence is not sufficient to establish that the covered factors of employment are related to appellant's emotional or cardiac condition.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.<sup>6</sup>

In a report dated November 21, 1996, Dr. Stephen FitzGerald, a clinical psychologist, stated that appellant was "experiencing a stress condition related to [his] employment." In a report dated January 30, 1997, Dr. FitzGerald diagnosed anxiety disorder and stated that on October 15, 1996 appellant "requested assessment and treatment for work-related stress." These reports do not contain a recitation of the factors of employment to which appellant attributed his emotional condition, nor do they contain a rationalized medical opinion explaining how employment factors contributed to this condition. In a report dated February 19, 1997,

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<sup>5</sup> *Purvis Nettles*, 44 ECAB 623 (1993).

<sup>6</sup> *Bruce E. Martin*, 35 ECAB 1090 (1984).

Dr. Stanley P. Meltzer, a Board-certified internist, noted that appellant had coronary artery disease, for which he underwent coronary artery intervention and coronary artery bypass graft surgery. He also stated that appellant had been under more stress at work with a smaller area to work in and fewer employees to help him. Although Dr. Meltzer recommended a less stressful job environment, he did not render an opinion whether factors of appellant's employment contributed to his coronary artery disease or his need for surgery. The medical evidence is insufficient to meet appellant's burden of proof.

The decision of the Office of Workers' Compensation Programs dated June 2, 1997 is modified to reflect that appellant attributed his conditions to compensable and substantiated employment factors, and affirmed on the basis that appellant has not established that these factors contributed to his emotional or cardiac conditions.

Dated, Washington, D.C.  
March 29, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member