U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN C. REIS and U.S. POSTAL SERVICE,
POST OFFICE, Jacksonville, FL

Docket No. 00-13; Submitted on the Record;
Issued January 23, 2001

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
VALERIE D. EVANS-HARRELL

The issue is whether appellant met his burden of proof to establish that he sustained an emotional condition in the performance of duty causally related to factors of his employment.

The Board has duly considered the case record in this appeal and finds that appellant did not meet his burden of proof to establish that he sustained an emotional condition in the performance of duty causally related to factors of his employment.

This is the second appeal in this case.[1] By decision dated February 23, 1999, the Board remanded the case for further development of the factual evidence to determine whether appellant was required by the employing establishment to work more than the eight-hour-a-day limitation set by his attending physician and, if so, to examine the medical evidence to determine whether it established that appellant's emotional condition was causally related to being required to work more than eight hours a day. The facts of this case are more fully set forth in the Board's February 23, 1999 decision and are incorporated herein by reference.

Subsequent to the remand of the case by the Board, the Office of Workers' Compensation Programs inquired as to whether the employing establishment had required appellant to work more than the eight hours a day recommended by his physician. The employing establishment responded that there were some pay periods when appellant worked more than eight hours a day but this overtime work was not authorized by his supervisor. It related that appellant was instructed to tell his supervisor each workday morning what his workload was for the day and, if necessary, assistance from another carrier would be authorized but that appellant was not authorized to work overtime. The employing establishment related that appellant would sometimes work more than eight hours a day without permission, even though he was authorized

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[1] *See* Docket No. 97-699 (issued February 23, 1999). On May 25, 1994 appellant, then a 36-year-old letter carrier, filed a notice of occupational disease alleging that he sustained an emotional condition, which he attributed to factors of his employment.

to receive assistance with his work if needed. It related that appellant worked overtime every pay period but one from December 25, 1993 through August 19, 1994.

In a statement dated May 19, 1999, Ron Steedley, manager of customer service for the employing establishment, related that appellant had worked overtime on occasion between December 25, 1993 and August 19, 1994 without the prior knowledge or consent of his supervisor.

By decision dated July 6, 1999, the Office denied appellant's claim for an emotional condition on the grounds that he had failed to establish that his condition was causally related to compensable factors of his employment. The Office determined that appellant's allegation that he was required to work more than eight hours a day by the employing establishment was not substantiated by the evidence of record and was not, therefore, deemed a compensable factor of employment.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an individual'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 duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.[2] 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.[3]

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by employment factors.[4] This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.[5]

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, 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.[6] If a claimant does implicate a factor of

[2] 5 U.S.C. §§ 8101-8193.

[3] *See Thomas D. McEuen*, 41 ECAB 387, 391 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

[4] *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

[5] *Effie O. Morris*, 44 ECAB 470, 473 (1993).

[6] *See Margaret S. Krzycki*, 43 ECAB 496, 502 (1992); *Norma L. Blank*, 43 ECAB 384, 389 (1992).

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.[7]

The Board has held that being required to work beyond one's physical limitations could constitute a compensable employment factor if such activity is substantiated by the record.[8]

In this case, the employing establishment advised the Office that appellant was not required nor authorized to perform overtime work and had been instructed to request assistance if he felt that he could not complete his daily workload within eight hours. The Office related that when appellant worked overtime he did so without the knowledge or consent of the employing establishment. Appellant has provided no evidence to establish that he was required by the employing establishment to work more than eight hours a day. Because the evidence of record fails to establish a compensable factor of employment, the Board finds that appellant has failed to discharge his burden of proof.[9]

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[7] *Id.*

[8] *Diane C. Bernard*, 45 ECAB 223, 227 (1993).

[9] Unless appellant alleges a compensable factor of employment substantiated by the record, it is unnecessary to address the medical evidence. *See Garry M. Carlo,* 47 ECAB 299, 305 (1996); *Margaret S. Krzycki*, *supra* note 6.

The decision of the Office of Workers' Compensation Programs dated July 6, 1999 is affirmed.

Dated, Washington, DC
January 23, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Valerie D. Evans-Harrell
Alternate Member