

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PAUL C. SIDER and U.S. POSTAL SERVICE,  
POST OFFICE, New Orleans, LA

*Docket No. 99-1085; Submitted on the Record;  
Issued May 15, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
A. PETER KANJORSKI

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

On May 20, 1997 appellant, a 50-year-old postmaster, filed a Form CA-2 claim for benefits based on occupational disease, alleging that factors of his employment caused him to become depressed and exacerbated his post-traumatic stress disorder (PTSD) condition. In an undated statement accompanying the claim, appellant asserted that function demands, goals and obligations at the workplace had caused him emotional stress. He stated that he became depressed because he was ostracized by superiors and unfairly passed over for promotions. Appellant also indicated that his employment-related stress had aggravated his condition of PTSD which he began to experience in 1968 when he returned home from Vietnam.

The employing establishment rebutted appellant's allegations in a May 30, 1997 letter from his immediate supervisor, Stuart A. Shayot, who stated that appellant had the same function demands, goals and obligations as that of all other level 18 postmasters. Mr. Shayot also denied that he had ever personally "ostracized" appellant. He related that appellant had complained to him several months before about his back hurting due to the long commuting distance from his home to the workplace. He stated that appellant had requested a detail with a position closer to home and was subsequently offered three details but he refused to accept any of these transfers because he was seeking a higher-level assignment. Mr. Shayot stated that he was aware that appellant had PTSD as a result of his military service in Vietnam, but was not aware of how this condition was causally related to his employment. He noted that appellant had filed an Equal Employment Opportunity claim against a former supervisor at another post office because he had not been promoted to postmaster.

In an undated medical report accompanying the claim, Dr. Morris E. Burka, Ph.d and a clinical psychologist, stated that appellant had been depressed for about three years and had related his depression to conditions on the job, including lack of promotion, lack of acknowledgment by his superiors, ostracism by his peers and unfair/unequal treatment by his

superiors. Dr. Burka advised that appellant had symptoms of depressed mood, insomnia, irritability and anger. He stated that when appellant became depressed about his job, he tended to experience a recurrence of post-traumatic symptoms including disturbing dreams about Vietnam, excessive perspiration and episodes of derealization. Dr. Burka, who examined appellant on April 10, 1997, also noted that appellant experienced significant stress due to the excessive commuting -- 140 miles -- demanded by his job situation.

By letter dated June 20, 1997, the Office of Workers' Compensation Programs advised appellant that the evidence he submitted was not sufficient to determine whether he was eligible for compensation benefits and that he needed to submit a detailed description of the specific employment-related conditions or incidents he believed contributed to his illness. The Office also asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition and an opinion as to whether factors or incidents, *i.e.*, specific employment factors, at his employing establishment contributed to his condition.

Appellant submitted additional medical reports and personal statements, but these were essentially cumulative and repetitive of those previously submitted. In a statement received by the Office on July 11, 1997, appellant asserted that on certain occasions, due to budgetary restrictions, he was compelled to simultaneously perform the duties of absent employees in addition to his regular duties as a postmaster.

By decision dated August 31, 1998, the Office found that fact of injury was not established, as the evidence of record did not establish that an emotional condition was sustained in the performance of duty.

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

To establish that an emotional condition was sustained in the performance of duty there must be factual evidence identifying and corroborating employment factors or incidents alleged to have caused or contributed to the condition, medical evidence establishing that the employee has an emotional condition and rationalized medical opinion establishing that compensable employment factors are causally related to the claimed emotional condition.<sup>1</sup> There must be evidence that implicated acts of harassment or discrimination did, in fact, occur supported by specific, substantive, reliable and probative evidence.<sup>2</sup>

The first issue to be addressed is whether appellant has cited factors of employment that contributed to his alleged emotional condition or disability. Where the disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>3</sup> On the other hand, disability is not covered where it results from an employee's fear of a

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<sup>1</sup> See *Debbie J. Hobbs*, 43 ECAB 135 (1991).

<sup>2</sup> See *Ruth C. Borden*, 43 ECAB 146 (1991).

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

reduction-in-force, frustration from not being permitted to work in a particular environment or to hold a particular position or to secure a promotion. Disabling conditions resulting from an employee's feeling of job insecurity or the desire for a different job do not constitute a personal injury sustained while in the performance of duty within the meaning of the Act.<sup>4</sup>

Appellant has not submitted sufficient factual evidence to support his allegations that he was harassed, mistreated or treated in a discriminatory manner by his supervisors. He has alleged, in general terms, that his superiors at the employing establishment constantly ostracized him, but has not provided a description of specific incidents or sufficient supporting evidence to substantiate the allegations. The Board finds that these allegations are not factually established as alleged by appellant, as he failed to provide evidence in support of his allegations. As such, appellant's allegations constitute mere perceptions or generally stated assertions of dissatisfaction with a certain superior at work which do not support his claim for an emotional disability.<sup>5</sup>

The Board further finds that the administrative and personnel actions taken by management in this case contained no evidence of agency error and are therefore not considered factors of employment. An employee's emotional reaction to an administrative or personnel matter is not covered under the Act, unless there is evidence that the employing establishment acted unreasonably.<sup>6</sup>

In the instant case, appellant has presented no evidence that the employing establishment acted unreasonably or committed error with regard to the incidents of alleged unreasonable actions involving personnel matters on the part of the employing establishment. As to appellant's allegation that management unduly pressured him regarding function demands, goals and obligations, appellant did not provide any evidence that the employing establishment acted in an abusive or unreasonable manner in setting performance guidelines for appellant. Thus, these actions on the part of management did not constitute factors of employment. With regard to appellant's allegation that he was arbitrarily refused reassignment to another work site, the Board finds that this amounts to frustration at not being permitted to work in a particular environment and is not a compensable factor under the circumstances of this case.

With regard to appellant's allegation that he was refused reassignment to another work station, the Board finds that this amounts to frustration at not being permitted to work in a particular environment and is not a compensable factor under the circumstances of this case. In addition, appellant's dissatisfaction with failure to receive promotions is not a factor of employment. Determinations by the employing establishment concerning promotions are administrative in nature and not a duty of the employee.<sup>7</sup>

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

<sup>5</sup> *See Curtis Hall*, 45 ECAB 316, 325 (1994).

<sup>6</sup> *Alfred Arts*, 45 ECAB 530 (1994).

<sup>7</sup> *George A. Ross*, 43 ECAB 346 (1991).

Appellant's allegation that he was forced to perform additional duties not undertaken by other, similarly situated postmasters was denied by the employing establishment and appellant has not substantiated that such incidents actually occurred.<sup>8</sup> For this reason, the Board finds that appellant has not established that his emotional condition arose from the performance of his regular or specially assigned duties.

The decision of the Office of Workers' Compensation Programs August 31, 1998 is hereby affirmed.

Dated, Washington, DC  
May 15, 2001

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>8</sup> To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his allegations with probative reliable evidence. *Ruthie M. Evans*, 41 ECAB 416 (1990).