

employees, and since that time the situation had progressively deteriorated. He stated that the following factors were responsible for his condition: (1) continuous supervision of over 40 employees; (2) being held accountable for situations that he could not control, such as requiring carriers to maintain their schedules despite unforeseen incidents like late delivery of the mail; (3) a workload that did not allow time to discuss issues independently with carriers; (4) lack of support from the postmaster; and (5) being pushed to extremes to reach required goals.

In a report dated May 3, 1999, Dr. William Martucci, a family practitioner, stated that appellant had chest pain that was causally related to stress in his occupation. By report dated May 10, 1999, Dr. Robert Malacoff, a cardiologist, stated that appellant was recently treated for chest pain and underwent cardiac catheterization, which revealed normal coronary arteries. He indicated that appellant's chest discomfort may be noncardiac in origin and suggested he reduce stress at work.

By report dated June 8, 1999, Dr. Martucci stated that it was his understanding that appellant was understaffed, supervising over 40 employees and felt his workload was unattainable in an 8-hour day. He reported that appellant also related a lack of support and a fear of retaliation by his supervisors. Dr. Martucci stated that appellant had chest pain, insomnia, headaches, hypertension and was on medication for these conditions, which was a result of the described stressors at work.

On July 16, 1999 appellant stated that the postmaster, Mr. Wescoe, allowed more than a 20 to 1 employee-supervisor ratio and, although appellant had brought it to his attention, the postmaster failed to address the problem. He stated that he had been threatened by Mr. Wescoe and was afraid of further adverse actions. Appellant submitted letters regarding working conditions from other supervisors, as well as a September 5, 1998 letter to a union official. In the September 5, 1998 letter, he alleged that Mr. Wescoe had threatened him stating "you are f---ing dead" and that conditions at the work site included a lack of respect, abusive conditions and constant threats. Appellant also listed 18 problems in working conditions, which included being told to change careers if he could not handle the job, that he was overpaid, continuously worked six days, made to work without getting paid, yelled at or embarrassed in front of other managers and to supervise more employees than required. In a letter dated August 14, 1999, the union official alleged that the postmaster had become vindictive and retaliated against appellant and another supervisor. She did not cite to any specific instances of retaliation.

By report dated August 23, 1999, Dr. Martucci diagnosed gastritis, hypertension and anxiety. He stated that appellant needed to return to light-duty work.

In a decision dated November 26, 1999, the Office denied appellant's claim, finding that he did not establish any compensable work factors or establish an injury in the performance of duty.

Appellant submitted a December 22, 1999 report from Dr. Anthony Drago, Ph.D. a clinical psychologist, indicating that appellant was on medication for an anxiety disorder. He concurred with Dr. Martucci and Dr. Malacoff that appellant's difficulties were likely due to occupational stress. Appellant also submitted an October 9, 1998 letter to the union official stating that he was tired of his time being disallowed, never being told why his time was

disapproved, made to feel as if he were a liar and that his clock rings had been falsified so he could only get paid for eight hours of work.

In a letter dated December 23, 1999, appellant requested a hearing before an Office hearing representative, which was held on September 19, 2000. He testified that he felt stress at managing 40 individuals and trying to perform all required tasks in the time allotted, getting mail out, controlling mail flow coming in, talking to mail carriers. Appellant stated that he would have to work extra hours to complete assigned duties. He stated that at one point time cards were used and, when he worked more than eight hours, time was deleted from the card. In 1995, he had allowed an employee incidental leave and Mr. Wescoe threatened to kill him and there was an investigation.

In an undated statement, Mr. Wescoe disputed appellant's allegation that he was required to work over eight hours without pay. He stated work schedules showed that appellant was paid for overtime. He noted that in many cases appellant's duties would be consolidated with other supervisory personnel to accommodate his leave requests. Mr. Wescoe denied threatening appellant; he indicated that appellant had failed to follow instructions regarding a carrier's leave request and was told that he "f---ed it up." In an October 10, 2000 statement, Mr. Wescoe indicated that appellant had never reported a threat and there was never an investigation. He reported that appellant was paid appropriately and instances where time was disallowed was proper under the circumstances. An October 12, 2000 statement from the employing establishment timekeeper noted that he had never been requested by Mr. Wescoe to change a timecard entry. An October 13, 2000 statement from a manager of customer services reported that he was a witness to the alleged threat incident between Mr. Wescoe and appellant and at no time did Mr. Wescoe threaten to kill or harm appellant.

By decision dated December 4, 2000, the Office hearing representative modified the prior decision to reflect that overwork was established as a compensable work factor. However, he found that the medical evidence was insufficient to establish an injury causally related to the compensable work factor.

In a letter dated December 3, 2001, appellant requested reconsideration of his claim. In a November 13, 2001 report, Dr. Martucci noted appellant's September 5, 1998 statement regarding problems in the workplace and discussed appellant's treatment. He stated that all of appellant's medical problems, including duodenitis, hypertension and reflux disease, have been aggravated by stress on the job. In a report dated November 28, 2001, Dr. Martucci opined that stress of appellant's present job was aggravating his current medical conditions.

By decision dated March 1, 2002, the Office denied modification of December 9, 2000 decision. Appellant requested reconsideration by letter dated February 28, 2003 and submitted a report dated February 28, 2003 from Dr. Malacoff, who stated that on April 29, 1999 appellant underwent a left cardiac catheterization. Dr. Malacoff did not believe appellant's chest discomfort was cardiac in origin. The physician reported that appellant was advised to reduce his job stress.

In a decision dated May 22, 2003, the Office denied modification of the March 1, 2002 decision.

Appellant again requested reconsideration and submitted the April 20, 2004 deposition of Dr. Martucci. He noted that appellant had given him the September 5, 1998 statement with a list of 18 different problems at the workplace. Dr. Martucci stated that appellant's complaints were having an impact on his gastritis or duodentitis and his hypertension. He stated, "As for anxiety, I think that pretty well speaks for itself." Dr. Martucci opined that the chest complaints and headaches were causally related to the job stress.

By decision dated May 28, 2004, the Office denied modification of the May 22, 2003 decision. The Office found that the evidence did not establish causal relationship between a diagnosed condition and the accepted work factor.

LEGAL PRECEDENT

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 factors of his federal employment.¹ This burden includes the submission of detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.² A claimant must also submit rationalized medical opinion evidence establishing a causal relationship between the claimed condition and the established, compensable work factors.³

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 illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where 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.⁴

A reaction to an administrative or personnel matter is generally not covered as it is not related to the performance of regular or specially assigned duties.⁵ Nevertheless, if the evidence demonstrates that the employing establishment erred, acted abusively or unreasonably in the

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

² *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

³ *See Bonnie Goodman*, 50 ECAB 139, 141 (1998).

⁴ *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ *See Brian H. Derrick*, 51 ECAB 417, 421 (2000).

administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁶

ANALYSIS

Appellant has alleged a number of work factors as contributing to emotional and physical conditions. Before the medical evidence is considered, it must be determined which of the allegations constitute compensable work factors that are substantiated by the evidence of record. In the present case, appellant made general allegations regarding a lack of support and respect from his supervisor. He alleged being told he was a poor and overpaid manager, being yelled at and embarrassed in front of other managers and being told to change careers if he could not handle the job. There was also a general allegation of retaliation by the postmaster. To the extent that appellant is alleging an injury resulting from actions of supervisors in the performance of their administrative duties, the evidence must establish error or abuse by the supervisors. The general allegations are not supported by sufficient detail citing specific instances of the alleged actions involving appellant or other supporting evidence. There are no findings of an administrative agency or other probative evidence that would substantiate an allegation of erroneous or abusive behavior.

Appellant did make specific allegations of error with respect to time cards being altered, work performed without pay and being required to supervise too many employees. The record, however, does not substantiate these allegations. The timekeeper and the postmaster disputed that timecards were altered and no probative evidence was submitted to substantiate error in appellant's pay or in the number of employees he supervised.

He alleged that in 1995 the postmaster threatened him. This allegation was denied by the postmaster and a witness and no probative evidence was submitted substantiating the claim. The Board finds that the evidence is not sufficient to establish a compensable work factor with respect to a threat against appellant.

The Office did accept a compensable work factor with respect to overwork. As noted above, the performance of regular or specially assigned duties are compensable work factors. Appellant did discuss his job duties in this case; he noted that he supervised 40 employees and the performance of his assigned duties was stressful and he had difficulty completing his assigned tasks.

Since appellant has substantiated a compensable work factor, the medical evidence must be reviewed to determine if causal relationship is established between a diagnosed condition and the accepted factors of overwork. Dr. Malacoff noted that he treated appellant for chest pains but he did not provide a reasoned opinion on causal relationship with this employment factor. Dr. Drago diagnosed anxiety disorder and stated that it was likely due to job stress, without providing further detail. Dr. Martucci provided a number of diagnoses, including anxiety, gastritis, duodenitis and hypertension. He offered an opinion that all of these conditions were related to appellant's job stress, without specifically addressing overwork or appellant's duties as a supervisor. In his deposition, Dr. Martucci referred to appellant's September 5, 1998 list of

⁶ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

problems at the workplace, but this list is primarily made up of noncompensable factors relating to appellant's postmaster and other supervisors. It is appellant's burden of proof to submit medical evidence with a rationalized opinion on causal relationship between the diagnosed condition and the accepted work factor. The Board finds that the reports and deposition testimony of Dr. Martucci are not of sufficient probative value on the issue presented in this case to establish the claim.

CONCLUSION

The Board finds that the medical evidence does not establish causal relationship between a diagnosed condition and a compensable work factor and, therefore, appellant did not meet his burden of proof in this case.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 28, 2004 is affirmed.

Issued: April 5, 2005
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member