

diagnosing mixed bipolar disorder. In an April 12, 2005 report, Dr. Richard A. Shulman, a clinical psychologist, noted that he had treated appellant for depression and anxiety for the past year. Appellant attributed an exacerbation of his depression and anxiety to a situation which occurred on April 6, 2005.

In a May 2, 2005 statement, Jose A. Holper, supervisor, noted that on April 5, 2005 Mike Cossack, a shop steward, inquired as to the status of appellant's donated leave request. While checking the file cabinet, Mr. Holper noted that no action had been taken on the leave request. Mr. Holper stated that he immediately filled in the form, signed it and handed it to Mr. Cossack.

In a June 2, 2005 investigative memorandum, Ruth A. Baugh, a postal inspector, noted that appellant attributed an April 6, 2005 incident as causing his bipolar disorder and major depression. Appellant informed Ms. Baugh that he had been on leave most of 2004 due to nonemployment-related depression. He stated that he submitted paperwork for donated leave at the end of 2004, which he later found out had not been submitted by management to Ms. Baugh. Appellant related that "he had a very controlled explosion at the steward" when he learned on April 6, 2005 that the paperwork had not been submitted.

In a May 16, 2005 letter, Dr. Shulman noted that appellant was receiving treatment sessions and remained totally disabled.

By letter dated June 16, 2005, the Office informed appellant that the evidence was insufficient to support his claim and advised him to submit additional factual and medical evidence.

In response, appellant submitted an April 23, 2005 witness statement from Mr. Cossack who addressed the April 6, 2005 meeting with Mr. Holper regarding appellant's request for donated leave. Mr. Holper found appellant's unprocessed request for donated leave in a filing cabinet. After locating the form, Mr. Holper signed it and said he would get it processed. Mr. Cossack noted that appellant became very upset after learning that his December 2004 request for donated leave had not yet been processed.

In an April 1, 2005 statement, appellant noted that he experienced major depression and stress. He noted that in November 2004 he took return to work forms to his psychotherapist to complete; however, the psychotherapist was unable to complete the forms as he was not a physician or psychiatrist. Appellant also had submitted a request for donated leave but received no response to his request, which he found very frustrating.

In an April 23, 2005 statement, appellant noted that he became very upset on April 6, 2005 due to several incidents. He related that, while commuting to work that day, his automobile was almost struck by a pick-up truck. Appellant again noted the employing establishment's failure to timely process his donated leave request. He noted that he contacted Ms. Lion about the pick-up truck incident. Appellant related that he was "sent over the edge" when he learned from Mr. Cossack that the paperwork had not been processed and was only signed that day. Appellant went home as he felt he was not "in any state to continue work or deliver my route."

In an April 27, 2005 grievance settlement letter, the employing establishment agreed to advance appellant sick leave, immediately process his request for leave donation and cease and desist delaying the leave donation request. It also stated that “[a]ny donated leave will be applied to the grievant’s sick leave advance balance.” A copy of the employing establishment’s leave sharing program was attached to the grievance. It stated “[t]here are no guarantees as to the number of hours that will be donated to an eligible recipient.” The eligibility requirements for the program required a recipient to submit a completed form requesting donated leave to his or her immediate supervisor for processing and approval.

In a July 12, 2005 CA-2 form addendum, appellant stated that he became extremely angry and frustrated on April 6, 2005 after learning that his December 2004 request for donated leave had not been processed. He noted that he “was met with a lack of cooperation and poor communications” when he attempted to return to work in October 2004.

In a July 25, 2005 report, Dr. Shulman indicated that he had treated appellant since May 24, 2004 for depression and bipolar disorder. He noted that appellant returned to work on February 24, 2005 and had been doing well until the incident on April 6, 2005. Appellant informed Dr. Shulman that on April 6, 2005 he learned his grievance over returning to work had been denied as untimely and that his request for donated leave had not been processed. Dr. Shulman opined that “due to the combination of stressful events that occurred on April 6, 2005” appellant’s bipolar condition progressed due to an exacerbation of stress.

By decision dated September 8, 2005, the Office denied appellant’s claim for compensation. It found that appellant had not established a compensable work factor.

On October 11, 2005 appellant requested reconsideration and submitted additional evidence. His representative contended that the Office failed to consider the reports by Dr. Shulman. He also contended that the evidence of record established that Mr. Holper acted improperly by failing to submit the claimant’s request for need leave sharing.

By decision dated December 15, 2005, the Office denied modification of the September 8, 2005 decision.

On May 1, 2006 appellant, through his representative, requested reconsideration and submitted evidence in support of his request. In an April 11, 2005 statement, Mr. Cossack related that appellant gave him forms requesting donated leave on December 5, 2004, which he forwarded to Mr. Holper. Mr. Cossack noted that appellant ran out of leave on March 1, 2004. In early April 2005, appellant checked with Mr. Holper regarding the status of his request for donated leave as appellant had not received a response to his request. At this time, Mr. Cossack learned that Mr. Holper had failed to process appellant’s request for donated leave. Mr. Cossack indicated that the reason appellant filed his request in December 2004 was to possibly reach employees who had use or lose leave to donate.

In an April 26, 2006 letter, Dwain Young, the union local vice president, stated that the employing establishment “admitted that [Mr.] Holper had placed the grievant’s request for leave donation in his drawer and forgot to process it.”

By decision dated May 19, 2006, the Office denied modification of the December 15, 2005 decision.

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.² 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.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 administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁶

ANALYSIS

The evidence of record is not sufficient to establish an emotional condition causally related to compensable work factors. Appellant alleged that he sustained stress as the result of the failure of Mr. Holper, a supervisor, to process his request for donated leave. However, leave

² *Sandra D. Pruitt*, 57 ECAB ____ (Docket No. 05-739, issued October 12, 2005); *Pamela R. Rice*, 38 ECAB 838 (1987).

³ *Robert Breeden*, 57 ECAB ____ (Docket No. 06-734, issued June 16, 2006); *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

⁴ *Jeral R. Gray*, 57 ECAB ____ (Docket No. 05-1851, issued June 8, 2006); *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ *Doretha M. Belnavis*, 57 ECAB ____ (Docket No. 05-1879, issued January 12, 2006); *Brian H. Derrick*, 51 ECAB 417 (2000).

⁶ *Robert G. Burns*, 57 ECAB ____ (Docket No. 06-380, issued June 26, 2006); *Margreate Lublin*, 44 ECAB 945, 956 (1993).

matters are considered to be administrative in nature.⁷ As noted an administrative matter will not constitute a compensable work factor unless there is evidence of error or abuse by the employing establishment.

The record indicates that the request for donated leave was not processed by Mr. Holper in a timely fashion. Mr. Holper and the employing establishment acknowledged that appellant's request for donated leave had not been timely processed following submission in December 2004. The employing establishment agreed to advance appellant leave since his request had not been timely processed. Mr. Cossack indicated that the reason appellant filed his request in December 2004 was to possibly reach employees who had use or lose leave. The record contains a copy of the leave program agreement which states there is no guarantee as to the number of hours a recipient will receive. While there was no guarantee as to the amount of donated leave appellant might receive, the failure of his supervisor to timely process the leave request precluded him from reaching out to employees with use or lose for the year 2004. Moreover, appellant would have been ineligible to be a recipient for the donated leave program in 2004 due to the failure of his supervisor to timely process his request. The eligibility requirements for the donated leave program required a recipient to submit a completed form to his supervisor for the request to be processed and approved. As his supervisor failed to timely process and approve the leave request, appellant was ineligible for the donated leave program in 2004. The Board finds that appellant has established error by the employing establishment in this matter.

Appellant has established a compensable factor of employment with respect to error by the employing establishment in failing to timely process his donated leave request. The case presents a medical question regarding whether his emotional condition was caused or contributed to by this compensable factor. As the Office found there were no compensable employment factors, it did not analyze the medical evidence. The case will be remanded to the Office for this purpose.⁸ After such further development as deemed necessary, the Office should issue a *de novo* decision on this matter.

CONCLUSION

The Board finds that this case is not in posture for a decision and must be remanded for further development to determine whether appellant sustained an emotional condition causally related to the accepted compensable employment factor.

⁷ Although the handling of leave requests is generally related to the employment, it is an administrative function of the employer and not a duty of the employee. *Lori A. Facey*, 55 ECAB 217 (2004); see also *Jeral R. Gray*, *supra* note 4. (An administrative or personnel matter will be considered to be an employment factor only where the evidence discloses error or abuse on the part of the employing establishment.)

⁸ *Tina D. Francis*, 56 ECAB ____ (Docket No. 04-965, issued December 16, 2004); *Robert Bartlett*, 51 ECAB 664 (2000).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 19, 2006 is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 23, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board