

In a February 11, 2008 statement, John M. Grimsley, a postmaster, noted that on January 18, 2008 appellant reported to his supervisor that he bumped his head while pushing a piece of equipment out of the vestibule. Appellant had two small cuts on his forehead and was given first aid. On January 19, 2008 he completed a traumatic injury claim and noted that he did not require medical attention at that time. On February 1, 2008 appellant indicated that he was having some personal problems and that he wanted to leave. Mr. Grimsley met with him and asked if stress had anything to do with his employment, noting that he had worked long hours as they were shorthanded. Appellant replied that he was having issues outside of work that caused stress and affected him emotionally. He went home early that day and called in sick on February 2, 2008. Mr. Grimsley noted that appellant came back to work on February 4, 2008 but again asked for leave due to personal issues. Appellant subsequently requested sick leave for the remainder of the week (February 5 to 8, 2008). On February 11, 2008 he called and asked if he could see a doctor because he believed that his emotional problems could be related to the bump on his head that he incurred on January 18, 2008.

Jelores Blake, an injury compensation specialist, noted on February 22, 2008 that there was no objective medical evidence establishing that appellant's current treatment was causally related to his employment. Appellant advised that he spent three hours at a behavioral healthcare facility on February 4, 2008 and, on February 6, 2008, he sought treatment at a hospital where he "snapped." He was discharged later that day and admitted to the mental hospital. The compensation specialist noted that appellant's first treatment for an emotional condition was 17 days after the work incident and after advising the postmaster of personal problems.

By letter dated February 26, 2008, the Office accepted appellant's claim for open wounds to the forehead without complication. By letter dated the same date, it requested that appellant submit further information with regard to his claim for an emotional condition.

By decision dated March 28, 2008, the Office denied appellant's emotional condition claim. Although the January 18, 2008 injury occurred, appellant did not submit medical evidence which provided a diagnosis connected to the injury.

In a February 7, 2008 report, Dr. Marielle B. Lazard, a Board-certified internist, listed her impressions as depression and chest pain, atypical in etiology. She noted that appellant would benefit from an extensive psychiatric evaluation. Dr. Lazard advised that appellant wished to be discharged from the hospital.

In a February 11, 2008 report, Dr. Myrna A. Garcia, a Board-certified psychiatrist, listed impressions of major depressive disorder, recurrent, moderate, chest pains, etiology to be determined and psychosocial stressors, including the most recent work injury. She noted that appellant's voluntary hospitalization should be rescinded as he had improved and no longer posed a danger to himself or others. Dr. Garcia prescribed medications and advised that appellant was psychiatrically cleared for discharge.

In a February 12, 2008 note, Dr. Michael Gebauer, a Board-certified family practitioner, indicated that appellant would make follow-up arrangements for psychiatric care. He listed a mood disorder, mild depression and moderate anxiety.

By letter dated April 7, 2008, appellant, through his attorney, requested a telephonic hearing, held on August 12, 2008. He testified that he was hired by the employing establishment on August 15, 1987. On January 18, 2008 while moving a mail cage, struck double doors, and they “jumped back” and hit the cage, pushing the cage into his forehead. He noted that he was bleeding and “[p]ractically passed out.” Appellant did not seek medical treatment at the time but a supervisor put a bandage on the cut. He first sought treatment at the Fitch Hospital for depression, mood swings and memory loss. Appellant was admitted for five or six days to deal with depression. He was placed on medication, and had a relapse, and was subsequently hospitalized for five or six days. At the hospital, a different medication started to help appellant. He returned to work about two to three months later. Appellant was currently under medical care and receiving psychotherapy. He noted a prior history of depression eight to ten years prior for which he was on medication. At the time of the January 18, 2008 employment injury, appellant was not undergoing therapy for emotional problems or taking medication. He also discussed a fight that he had with his roommate the same day he wound up at the hospital, but noted that he was already emotionally disturbed at the time of the fight.

By letter dated September 5, 2008, the employing establishment addressed the hearing transcript. After appellant sustained the minor surface cuts on his forehead, he continued to work that day and worked for two additional weeks with no displays of depression or anger while at work. Three weeks after the date of injury, he first alleged that his emotional condition was related to the bump on his head.

Appellant submitted an April 8, 2008 intake form from Lakeside Behavioral Healthcare, notes by nurses and licensed social workers and copies of prescriptions. In a May 31, 2008 report, Dr. Syed A. Abbas, a Board-certified cardiologist and internal medicine, diagnosed him with bipolar I disorder and high blood pressure. He adjusted appellant’s medications.

By decision dated October 27, 2008, the Office hearing representative affirmed the March 28, 2008 decision, finding that the medical evidence failed to establish that appellant’s depression was causally related to the January 18, 2008 head injury.

LEGAL PRECEDENT

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.¹ Second, the employee must submit sufficient evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.²

¹ *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

² *T.H.*, 59 ECAB ____ (Docket No. 07-2300, issued March 7, 2008); *John J. Carlone*, 41 ECAB 354, 356-357 (1989).

Workers' compensation 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 duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.³ 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 (RIF) or his frustration from not being permitted to work in a particular environment or to hold a particular position.⁴

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.⁵ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates the 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.⁶

A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that an emotional condition was caused or adversely affected by his employment.⁷ Neither the fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.⁸

ANALYSIS

The Office accepted that on January 18, 2008 appellant sustained two small open wounds on his forehead while in the performance of duty, but it denied his claim for an emotional condition related to this incident. There is no dispute that appellant established being hit on his head on January 18, 2008. Given that this accident happened while he was performing his employment duties, the Office properly found that he established a compensable employment factor.⁹

³ 5 U.S.C. §§ 8101-8193; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁵ *Dennis J. Balogh*, 52 ECAB 232 (2001).

⁶ *Id.*

⁷ *See Charles D. Edwards*, 55 ECAB 258 (2004).

⁸ *See Ronald K. Jablanski*, 56 ECAB 616 (2005); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁹ *Lillian Cutler*, *supra* note 3.

Appellant's burden of proof is not discharged simply by the fact that he has established an employment factor which may give rise to a compensable disability under the Act. To establish his claim for an emotional condition, he must also submit rationalized medical evidence establishing that he had an emotional or psychiatric disorder and that such disorder is causally related to the accepted compensable employment factors.¹⁰

Appellant has not established an emotional condition causally related to the January 18, 2008 incident. Initially, the Board notes that any records submitted from nurses or licensed social workers do not constitute competent medical evidence for the purpose of the Act. Social workers and nurses are not physicians as defined by the Act.¹¹ Furthermore, no physician provided a rationalized medical opinion explaining how appellant's emotional condition was caused or contributed to by the accepted incident. Dr. Garcia, a psychiatrist, noted only that appellant sought hospitalization for a recurrent depressive disorder. She noted a recent work injury as a psychosocial stressor, but did not address the January 18, 2008 employment injury. Dr. Garcia did not provide a rationalized medical opinion relating appellant's emotional condition to the January 18, 2008 work accident. Dr. Gebauer only noted that appellant would follow up with psychiatric care. No opinion or casual relationship was provided. Dr. Abbas provided diagnoses of a bipolar disorder but failed to address causal relation. Similarly, the report of Dr. Lazard noted treatment of appellant for an emotional condition but she did not address causal relation. This medical evidence is insufficient to establish appellant's claim.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.¹² There is insufficient medical evidence to establish that he sustained an emotional condition causally related to the January 18, 2008 work incident. Accordingly, the Board finds that appellant failed to meet his burden of proof.

CONCLUSION

The Board finds that appellant has not established that he sustained an emotional condition causally related to a January 18, 2008 employment injury.

¹⁰ See *William P. George*, 43 ECAB 1159, 1168 (1992).

¹¹ See 5 U.S.C. § 8101(2); see also *Phillip L. Barnes*, 55 ECAB 426 (2004).

¹² *John D. Jackson*, 55 ECAB 465 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated October 27 and March 28, 2008 are affirmed.

Issued: August 12, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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