U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD R. WHITE and U.S. POSTAL SERVICE,
POST OFFICE, North Reading, MA

Docket No. 00-1110; Submitted on the Record;
Issued March 11, 2002

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
MICHAEL E. GROOM

The issue is whether appellant sustained an emotional condition while in the performance of his federal employment after December 1991 causing disability after January 27, 1994.

In a prior appeal of this case,[1] the Board noted that the Office of Workers' Compensation Programs had accepted that appellant sustained an adjustment disorder and generalized anxiety disorder which caused intermittent disability between October 7, 1989 to April 7, 1992. Appellant returned to duty in December 1991 and claimed disability since January 27, 1994. The Office accepted that appellant was exposed to loud noise at the employing establishment but found that the medical evidence failed to establish that this factor caused his claimed emotional condition. The Board found that the Office's November 6, 1995 decision regarding appellant's claim that administrative actions, harassment and loud noise caused his emotional condition was in accordance with the facts and the law in the case. The Board also found, however, that the Office had not properly developed the claim with respect to appellant's allegation of overwork, following a route adjustment in the spring of 1994. The Board remanded the case for further development. The facts of this case as set forth in the Board's prior decision are hereby incorporated by reference.

In a November 20, 1998 letter to the Office, the postmaster provided a listing of hours worked and leave taken by appellant from November 15, 1993 to May 27, 1994. He explained that this information came from payroll records, as actual daily hours and time punches were no longer unavailable. Information concerning daily volume, mail curtailed and daily assistance to the route could not be provided with certainty because the supporting records were also beyond the required retention period. The postmaster continued:

> "[Appellant] regularly did not have sufficient time to complete his daily duties, as evidenced by the regular granting of assistance. Had [appellant] volunteered to

[1] Docket No. 96-986 (issued June 26, 1998).

work overtime, he would have completed some of this work himself. As he did not wish to work overtime, assistance was provided and the route was completed. At that particular time, overtime and or auxiliary assistance were regularly granted to a number of routes. In August 1993, Chelmsford routes became subject to Delivery Point Sequencing (DPS), a new method of handling mail, which resulted in significant changes to a number of assignments. [Appellant's] situation (with regards to his route) was not unique at the time and management dealt with him in the same manner as with other carriers, some who chose to work overtime and others who did not. The 1994 route examinations referred to by [appellant] were undertaken to adjust to the new method of handling the mail."

In a decision dated December 21, 1998, the Office denied appellant's claim on the grounds that the evidence failed to demonstrate that the claimed injury occurred in the performance of duty. Regarding the issue of overwork, the Office found as follows:

"It is accepted that [appellant] bid on Route 3 was [sic] overburdened and that because of that [he] was granted assistance on his route. A review of [his] route for the period November 15, 1993 until it was adjusted in the spring of 1994 indicates that [he] was provided with assistance. [Appellant] was not on the overtime preferred list and did not work any overtime during the period in question. [He] indicated that the carrier who had this route before could do it within the eight hours allowed but that he could work twice as fast as other carriers. Given that it is the [p]ostal [s]ervice's responsibility to deliver the mail regardless of the ability of any particular carrier, [appellant] was provided assistance. Part of [his] route namely 9 Evergreen to 47 Golden Cove would have been completed by another carrier. If [appellant] had wished to work overtime, overtime would have been granted. The route, however, was covered with assistance. There is no evidence that [he] was overworked because of his route."

In a decision dated October 13, 1999, an Office hearing representative affirmed the rejection of appellant's claim. The hearing representative found as follows:

"In this case, there is agreement all around that [appellant's] route consisted of more than an 8[-]hour route and the evidence provided to the file establishes this point as well. However, [he] regularly asked for assistance to complete his route, and assistance was provided in the form of permanent assistance and auxiliary assistance, in the form of overtime and again the evidence establishes this fact. It is [appellant's] contention that he experienced stress and anxiety in having to request additional assistance each day, stating that he was questioned and intimidated when doing so. He also contends that he was forced to work faster and give up his breaks as a result of such intimidation. However, it has already been established that there are no facts to establish any such actions on the part of management and that the submission of the forms constituted an administrative action which is not compensable under the law. As previously noted, there is no error or abuse established with regard to the administrative actions surrounding the workload issue.

"Considering all the evidence and facts as outlined in the case, it is determined that the evidence does not establish that [appellant] was overworked and thus there is no additional factor of employment which can be considered in this regard."

The Board finds that appellant has established a compensable factor of employment.

The Federal Employees' Compensation Act[2] provides for payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.[3] The phrase "sustained while in the performance of duty" is regarded as the equivalent of the coverage formula commonly found in workers' compensation laws, namely, "arising out of and in the course of performance."[4] "Arising in the course of employment" relates to the elements of time, place and work activity. To arise in the course of employment, an injury must occur at a time when the employee may reasonably be said to be engaged in his master's business, at a place where he may reasonably be expected to be in connection with his employment and while he was reasonably fulfilling the duties of his employment or engaged in doing something incidental thereto. This alone is not sufficient to establish entitlement to compensation. The employee must also establish an injury "arising out of the employment." To arise out of employment, the injury must have a causal connection to the employment, either by precipitation, aggravation or acceleration.[5]

As the Board noted in the case of *Lillian Cutler*,[6] however, workers' compensation law does not cover each and every illness that is somehow related to the employment. When an employee experiences emotional stress in carrying out his employment duties or has fear and anxiety regarding his ability to carry out his duties and the medical evidence establishes that the disability resulted from his emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability resulted from his emotional reaction to a special assignment or requirement imposed by the employing establishment or by the nature of his work. By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation law because they are not found to have arisen out of employment, such as when disability results from an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.

The Board finds that appellant has sufficiently attributed his emotional condition to his ordinary and normal working conditions and the evidence submitted is sufficient to establish

[2] 5 U.S.C. §§ 8101-8193.

[3] *Id*. § 8102(a).

[4] This construction makes the statute actively effective in those situations generally recognized as properly within the scope of workers' compensation law. *Bernard D. Blum*, 1 ECAB 1 (1947).

[5] *See Eugene G. Chin*, 39 ECAB 598 (1988); *Clayton Varner*, 37 ECAB 248 (1985); *Thelma B. Barenkamp (Joseph L. Barenkamp)*, 5 ECAB 228 (1952).

[6] 28 ECAB 125 (1976).

overwork. The Office accepts that appellant's route required greater than eight hours for completion and the postmaster has confirmed that appellant regularly did not have sufficient time to complete his daily duties. These facts are sufficient to establish a compensable factor of employment under the standard announced in *Lillian Cutler*.

In an emotional condition claim, a claimant's burden of proof is not discharged by the fact that he has established a compensable factor of employment. He must submit medical evidence establishing that he has an emotional or psychiatric disorder and he must provide a rationalized medical opinion explaining how the diagnosed emotional condition is causally related to the established compensable factors of employment.[7]

Appellant submitted an October 19, 1994 report from Dr. Chand K. Bhan, a Board-certified psychiatrist, who reported that appellant had presented with a long, chronicled history citing a perceived pattern of mental injury. Appellant implicated the actions of his supervisor and management; he also implicated harassment and threats. Regarding the established compensable factor of employment, Dr. Bhan stated:

> "Another specific factor affecting the [p]atients condition was the apparent arbitrary staff deployment biasing [appellant] such as overtime and overburdened route #3 which made [appellant] exceed his standards of expectation and gradually overcome [appellant's] tolerance and aggravated his old fears and anxieties because of past overburdened routes."

Dr. Bhan concluded: "Reviewing his history and these specific recurrent incidents at work, it is my opinion that his anxiety was severely reactivated by each of these work-related events resulting in mental injury and disability."

This report is of diminished probative value. Dr. Bhan noted that appellant had anxiety but did not indicate that this was his principal diagnosis based on a psychiatric examination of appellant. Further, the one sentence Dr. Bhan devoted to the established compensable factor of employment is simply too brief to provide meaningful psychiatric rationale explaining how appellant's duties caused or aggravated his diagnosed condition.[8]

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.[9] It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt in the mind of a medical scientist. The

[7] *Ruth C. Borden*, 43 ECAB 146 (1991).

[8] The Office accepts that appellant was exposed to loud noise in the course of his employment, which is also a compensable factor of employment.

[9] *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical.[10]

Because the medical opinion submitted in this case is insufficient to establish the critical element of causal relationship, appellant has not met his burden of proof.

The October 13, 1999 decision of the Office of Workers' Compensation Programs is modified to find an established compensable factor of employment and is otherwise affirmed.

Dated, Washington, DC
March 11, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Michael E. Groom
Alternate Member

[10] *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein at note 1.