

**United States Department of Labor
Employees' Compensation Appeals Board**

G.W., Appellant)	
)	
and)	Docket No. 22-1360
)	Issued: May 4, 2023
U.S. POSTAL SERVICE, SUTTER CREEK)	
POST OFFICE, Sutter Creek, CA, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On September 26, 2022 appellant filed a timely appeal from a June 16, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a stress-related condition in the performance of duty, as alleged.

FACTUAL HISTORY

On April 14, 2022 appellant, then a 58-year-old rural carrier associate, filed an occupational disease claim (Form CA-2) alleging that he became physically sick when he reported for duty due to factors of his federal employment, including a hostile work environment. He

¹ 5 U.S.C. § 8101 *et seq.*

explained that, beginning in the middle of March 2021, he began to suffer an inordinate amount of stress for an extended period, which continued to the present. Appellant also stated that he had ongoing grievances. He noted that he first became aware of his claimed condition on March 18, 2021 and first realized its relation to factors of his federal employment on April 11, 2022.

In support of his claim, appellant submitted a May 13, 2021 work excuse note from Dr. Kamalpreet Dulai, a Board-certified family medicine specialist, holding him off work from May 10 through 14, 2021. In a June 29, 2021 work excuse note, Dr. William A. Renie, Board-certified in emergency medicine, held appellant off work until July 1, 2021.

A September 16, 2021 work excuse note from Matthew Vega, a registered nurse, related that appellant was seen in the behavioral health clinic for extreme anxiety. Mr. Vega advised that, “[d]ue to work[-]related stressors aggravating [appellant’s] current levels of anxiety,” he was holding appellant off work from September 12 through 19, 2021.

In a May 6, 2022 development letter, OWCP informed appellant of the deficiencies of his claim and requested that he submit additional evidence, including a detailed description of the implicated work factors and copies of documents related to any filed grievance related to the claim. It requested that he respond to the questions in an attached questionnaire and return it to OWCP. In a separate development letter of even date, OWCP also requested that the employing establishment provide information, including comments from a knowledgeable supervisor regarding the accuracy of appellant’s allegations. It afforded both parties 30 days to respond.

Appellant submitted medical evidence, including a June 30, 2021 report from Dr. Sarah Hays, a Board-certified psychiatrist, who noted that he reported being under a lot of stress due to long work hours, the recent death of a family member, and his daughter’s health condition, which might require surgery. He reported that he was experiencing more mental health symptoms lately because of all the stress. Dr. Hays diagnosed unspecified mood disorder.

Appellant also submitted a September 16, 2021 report from Mr. Vega, who noted that appellant’s behaviors were becoming more manic. He reported that work had caused an inordinate amount of stress, which made his life difficult to the point that he no longer felt able to work at the employing establishment. Appellant also reported a possible conspiracy against him at work and a reduction in his hours of sleep.

In a September 27, 2021 report, Dr. Hays noted that appellant reported being falsely accused of sexual harassment and asserted that his supervisor was creating a hostile work environment. Appellant reported that he believed that he was going to be fired. Dr. Hays diagnosed unspecified mood disorder. In a September 29, 2021 report, she again diagnosed unspecified mood disorder. In an October 7, 2021 addendum, Dr. Hays indicated that she had completed Family and Medical Leave Act (FMLA) paperwork holding appellant off work due to mental health issues from September 24 through October 12, 2021. In an October 18, 2021 report, she noted that he reported being under stress due to his job and stated that he would probably have to quit. In an October 25, 2021 addendum, Dr. Hays indicated that she completed FMLA paperwork to extend appellant’s leave through January 5, 2022.

By decision dated June 16, 2022, OWCP denied appellant's stress-related condition claim, finding that he had not provided specific details regarding his claim and had not established a compensable employment factor. It concluded, therefore, that the requirements had not been met for establishing that he sustained an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

To establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.⁵

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 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 or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.⁶ 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 or his or her frustration from not being permitted to work in a particular environment, or to hold a particular position.⁷

A claimant has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence that the condition for which he or she claims compensation was caused or

² *Id.*

³ *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *Gary J. Watling*, 52 ECAB 278 (2001).

⁴ 20 C.F.R. § 10.115(e); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *see T.O.*, Docket No. 18-1012 (issued October 29, 2018); *see Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *See S.K.*, Docket No. 18-1648 (issued March 14, 2019); *M.C.*, Docket No. 14-1456 (issued December 24, 2014); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁶ *Lillian Cutler*, 28 ECAB 125 (1976).

⁷ *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

adversely affected by employment factors.⁸ This burden includes the submission of a detailed description of the employment factors or conditions which he or she believes caused or adversely affected a condition for which compensation is claimed, and a rationalized medical opinion relating the claimed condition to compensable employment factors.⁹

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, 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.¹⁰ If a claimant does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, it must base its decision on an analysis of the medical evidence.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a stress-related condition in the performance of duty, as alleged.

In his Form CA-2, appellant indicated that he became physically sick when he reported for duty due to an inordinate amount of stress and a hostile work environment. OWCP, in its May 6, 2022 development letter, requested that he complete an attached questionnaire and provide a detailed description of the implicated work factors and copies of documents related to any filed grievance related to the claim. Appellant, however, did not respond to OWCP's May 6, 2022 development questionnaire.

Appellant has not provided a sufficient description of the alleged employment factors. The Board, therefore, finds that he has not met his burden of proof.¹² As appellant has not met his burden of proof to establish that, a stress-related condition occurred in the performance of duty, as alleged, it is unnecessary to address the medical evidence of record regarding causal relationship.¹³

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

⁸ *B.S.*, Docket No. 19-0378 (issued July 10, 2019); *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁹ *P.B.*, Docket No. 17-1912 (issued December 28, 2018); *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

¹⁰ *See O.G.*, Docket No. 18-0359 (issued August 7, 2019); *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

¹¹ *Id.*

¹² *H.D.*, Docket No. 15-1698 (issued May 4, 2016).

¹³ *J.C.*, Docket No. 19-0542 (issued August 14, 2019); *see M.P.*, Docket No. 15-0952 (issued July 23, 2015); *Alvin V. Gadd*, 57 ECAB 172 (2005).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a stress-related condition in the performance of duty, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the June 16, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 4, 2023
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board