

Ramos, Daniel

[INJURY \(RCW 51.08.100\)](#)

"Sudden and tangible happening"

A worker's mental reaction to failed job performances and related disciplinary actions over a period of time leading ultimately to dismissal do not establish the "suddenness" or "traumatic" requirements of proof of an industrial injury. ...*In re Daniel Ramos, BIIA Dec., 91 6906 (1993)* [Editor's Note: The Board's decision was appealed to superior court under Clark County Cause No. 93-2-01054-4.]

[OCCUPATIONAL DISEASE \(RCW 51.08.140\)](#)

Psychiatric conditions (mental/mental)

On-the-job stress related to failed job performances and related disciplinary actions which results in a mental condition is not an occupational disease. RCW 51.08.142; WAC 296-14-300(2) ...*In re Daniel Ramos, BIIA Dec., 91 6906 (1993)* [Editor's Note: The Board's decision was appealed to superior court under Clark County Cause No. 93-2-01054-4.]

Scroll down for order.

1 here reach. We have granted review because we believe that Mr. Ramos' mental condition was not
2 the result of an industrial injury as defined by RCW 51.08.100, and it is excluded as an occupational
3 disease pursuant to RCW 51.08.142.
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5 Daniel Ramos was a security guard who was approximately 55 years of age at the time of his
6 alleged industrial injury. As a security guard with RAMS Specialized Security Service, Inc., he was
7 required to check fire equipment and boiler facilities to assure that the Bonneville Power Command
8 Station in Vancouver, Washington, was operating properly. Among other duties, his function was to
9 timely detect equipment malfunctions which could result in millions of dollars in property loss.
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11 In July 1990, Mr. Ramos failed to report a CPU failure which occurred on his shift. Mr. Ramos
12 received a corrective action counseling session from Mr. Adams, his supervisor. No further
13 disciplinary action was contemplated as a result of this incident.
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15 On December 17, 1990, Mr. Ramos failed to discover a malfunction in the fire alarm system.
16 This problem was not discovered until the Fire Department arrived at the complex after being notified
17 of a potential fire by the automated reporting function of that system. Mr. Ramos was once again
18 counseled about his responsibilities.
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20 On December 24, 1990, Mr. Ramos was once again required to inspect the boilers at portions
21 of the Bonneville station. It was his duty to contact the appropriate personnel if he discovered that the
22 boilers were not working. In his daily report for December 24, 1990, he wrote that the boiler pressure
23 was at 0 psi. This would indicate that the boilers were off line. Nonetheless, Mr. Ramos failed to
24 contact the appropriate personnel to fix the equipment. The boiler problem was not discovered until
25 after Mr. Ramos was relieved by the next shift. At a later time, Mr. Ramos altered his report to
26 coincide with his position that the boilers were operating properly. This alteration was evident to his
27 superiors because the top copy of the report was changed but the carbon copies were still in their
28 original state.
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30 Mr. Ramos' employment was terminated on January 7, 1991 for his lack of attention to job
31 duties and dishonesty. After being discharged, Mr. Ramos exhibited a major depression which
32 worsened to the point that he was hospitalized for up to ten days in both the months of January and
33 February 1991. Mr. Ramos became lethargic and admitted to homicidal ideations directed at his
34 former supervisors.
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3 **DECISION**

4 Our Industrial Insurance Act covers both industrial injuries and occupational diseases which
5 occur as a proximate result of performing work duties. When on-the-job stress is the cause of a
6 mental condition or mental disease, the resultant condition is not an occupational disease pursuant to
7 RCW 51.08.142. However, mental conditions may be compensable if they are the result of industrial
8 injuries. WAC 296-14-300(2). After reviewing the sequence of events, we are convinced that Mr.
9 Ramos' mental health condition was not the result of an industrial injury as contemplated by RCW
10 51.08.100.
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13 Mr. Ramos does assert that his termination from employment should be construed as an
14 industrial "injury" and the cause of his mental health condition. He did not produce any evidence to
15 persuade us that the dismissal interview or the events leading to the dismissal were traumatic in
16 nature. When Mr. Ramos was fired, he was presented with a letter which was an all-inclusive
17 recitation of the reasons for his termination. Nothing was discussed at that meeting because the letter
18 was considered to address all of the issues the employer desired to communicate to Mr. Ramos. The
19 discharge interview was nothing more than announcing the inevitable result of his failure to perform his
20 work duties. This may have been upsetting to Mr. Ramos, but it cannot be construed as a sudden
21 tangible happening of a traumatic nature, as contemplated by RCW 51.08.100. Mr. Ramos had been
22 counseled previously regarding failures to perform his duties. He was aware that the most recent
23 problem involving the failure to report the boiler problem would lead to further, and perhaps, more
24 serious discipline. He attempted to falsify his report to stave off these consequences. To be sure Mr.
25 Ramos was anxious about these events, but the actual dismissal was, if anything, anticlimactic and
26 void of any traumatic impact either physically or mentally.
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34 Further, the events leading up to his termination occurred over a six-month period,
35 commencing with his failure to perform his job duties in July, 1990. Again, a worker's mental reaction
36 to failed job performances and disciplinary actions related to such failures over such a period of time
37 does not establish the suddenness or trauma sufficient to meet the requirements of an industrial injury.
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39 After consideration of the Proposed Decision and Order, the Petitions for Review filed thereto,
40 the claimant's Reply to Petitions for Review, and a careful review of the entire record before us, we are
41 persuaded that Mr. Ramos neither suffered from an industrial injury as contemplated by RCW
42 51.08.100, nor an occupational disease in view of the prohibition of coverage by RCW 51.08.142.
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45 We hereby make the following Findings of Fact and Conclusions of Law:
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3 **FINDINGS OF FACT**
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- 5 1. On March 18, 1991, the Department of Labor and Industries received
6 Daniel Ramos' application for benefits for anxiety and depression that Mr.
7 Ramos alleged was the result of an injury sustained during the course of
8 his employment with Rams Specialized Security Services, Inc.

9 On March 21, 1991, the Department issued an order rejecting Mr. Ramos'
10 claim for the reasons that there was no proof of a specific injury at a
11 definite time and place in the course of employment; that his condition was
12 not the result of an industrial injury as defined by the industrial insurance
13 laws; and, that his condition was not the result of an occupational disease
14 as defined by RCW 51.08.140. On April 9, 1991, the Department received
15 Mr. Ramos' protest and request that it reconsider its March 21, 1991
16 order.

17 On November 14, 1991, the Department issued an order affirming its
18 March 21, 1991 order, and additionally rejecting Mr. Ramos' claim for
19 occupational stress as being excluded under RCW 51.08.142. On
20 December 23, 1991, the Board of Industrial Insurance Appeals received
21 Mr. Ramos' notice of appeal from the Department's November 14, 1991
22 order.

- 23 2. In 1990, Daniel Ramos worked for RAMS Specialized Security, Inc. as a
24 security guard. Since June 1990 Mr. Ramos suffered a mild to moderate
25 depression. This mental health disorder affected Mr. Ramos' ability to
26 concentrate.

- 27 3. In July 1990 Mr. Ramos failed to perform his security duties when he did
28 not notice that there was a CPU failure at the Bonneville Power Station in
29 Vancouver, Washington. He was subjected to a corrective action
30 counseling session with his supervisor. On December 17, 1990 Mr.
31 Ramos failed to perform his security duties when he did not detect a
32 problem with the fire alarm system at the Bonneville Power Plant in
33 Vancouver, Washington. He once again received supervisory counseling
34 about his job responsibilities. Mr. Ramos further neglected his job duties
35 when he failed to take proper action on December 24, 1990 when the
36 boiler system was inoperable, for which he was suspended from duty. Mr.
37 Ramos falsified his report to his employer concerning the operation of that
38 boiler system. His employment was terminated on January 7, 1991 for
39 lack of attention to job duties and dishonesty.

- 40 4. The events leading up to Mr. Ramos' termination and the termination itself
41 were not sudden happenings of a traumatic nature which produced or
42 aggravated Mr. Ramos' underlying mental health condition. From their
43 inception, Mr. Ramos was cognizant that his falsification of documents and
44 poor work performance would lead to termination.
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1 5. Mr. Ramos' suspension and termination were not the proximate cause of
2 his mental health condition nor did they aggravate his underlying mental
3 health condition.

4 **CONCLUSIONS OF LAW**

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6 1. The Board of Industrial Insurance Appeals has jurisdiction over the parties
7 and over the subject matter to this appeal.
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9 2. Daniel Ramos' mental health condition was not the result of an industrial
10 injury as defined by RCW 51.08.100.
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12 3. The order of the Department of Labor and Industries dated November 14,
13 1991, which rejected coverage pursuant to RCW 51.08.142 for a mental
14 health condition described as occupational stress and affirmed its March
15 21, 1991 order, which rejected Mr. Ramos' claim for the reasons that there
16 was no proof of a specific injury at a definite time and place in the course
17 of employment; that his condition was not the result of an industrial injury
18 as defined by the industrial insurance laws; and, that his condition was not
19 the result of an occupational disease as defined by RCW 51.08.140, was
correct and is affirmed.

20 It is so ORDERED.

21 Dated this 18th day of March, 1993.

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23 BOARD OF INDUSTRIAL INSURANCE APPEALS

24 /s/
25 S. FREDERICK FELLER Chairperson

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28 /s/
29 FRANK E. FENNERTY, JR. Member

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32 /s/
33 PHILLIP T. BORK Member