

## Ramos, Daniel

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### [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.

**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS  
STATE OF WASHINGTON**

1 **IN RE: DANIEL B. RAMOS** ) **DOCKET NO. 91 6906**  
2 )  
3 **CLAIM NO. N-097749** ) **DECISION AND ORDER**  
4

5 APPEARANCES:  
6

7 Claimant, Daniel B. Ramos, by  
8 Morse & Bratt, per  
9 Ben Shafton and Gideon Caron, Attorneys  
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11 Employer, RAMS Specialized Security Service, Inc., by  
12 Lane Powell Spears Lubersky, per  
13 Ralph C. Pond, Attorney  
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15 Department of Labor and Industries, by  
16 The Office of the Attorney General, per  
17 Jeffrey L. Adatto and Karen M. Wilson, Assistants  
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19 This is an appeal filed by the claimant, Daniel B. Ramos, on December 23, 1991 from an order  
20 of the Department of Labor and Industries dated November 14, 1991 which rejected coverage for a  
21 condition described as "occupational stress" on the basis that RCW 51.08.142 excluded coverage for  
22 such conditions. That order further affirmed a Department order of March 21, 1991 which rejected  
23 coverage on the basis that there was no proof of a specific injury; that the condition was not the result  
24 of an industrial injury as defined by the industrial insurance laws; and that the condition was not an  
25 occupational disease as contemplated by RCW 51.08.140. **AFFIRMED.**  
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30 **DISCUSSION**  
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32 Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review  
33 and decision on timely Petitions for Review filed by both the Department of Labor & Industries and the  
34 employer to a Proposed Decision and Order issued on October 29, 1992, in which the order of the  
35 Department dated November 14, 1991 was reversed and the matter was remanded to the Department  
36 with instructions to accept Mr. Ramos' claim as a mental health condition which was a result of two  
37 separate industrial injuries.  
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39 The Board has reviewed the evidentiary rulings in the record of proceedings and finds that no  
40 prejudicial error was committed and said rulings are hereby affirmed.  
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42 We feel that the issue and the evidence presented by the parties are adequately set forth in the  
43 Proposed Decision and Order. We will reiterate pertinent facts solely to explain the decision which we  
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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.  
4

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.  
14

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.  
19

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**  
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5 Our Industrial Insurance Act covers both industrial injuries and occupational diseases which  
6 occur as a proximate result of performing work duties. When on-the-job stress is the cause of a  
7 mental condition or mental disease, the resultant condition is not an occupational disease pursuant to  
8 RCW 51.08.142. However, mental conditions may be compensable if they are the result of industrial  
9 injuries. WAC 296-14-300(2). After reviewing the sequence of events, we are convinced that Mr.  
10 Ramos' mental health condition was not the result of an industrial injury as contemplated by RCW  
11 51.08.100.  
12

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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40 After consideration of the Proposed Decision and Order, the Petitions for Review filed thereto,  
41 the claimant's Reply to Petitions for Review, and a careful review of the entire record before us, we are  
42 persuaded that Mr. Ramos neither suffered from an industrial injury as contemplated by RCW  
43 51.08.100, nor an occupational disease in view of the prohibition of coverage by RCW 51.08.142.  
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46 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**

- 5  
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.

22 BOARD OF INDUSTRIAL INSURANCE APPEALS

23 /s/  
24 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