

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of BRENDA C. GORDON and DEPARTMENT OF THE AIR FORCE,  
OKLAHOMA CITY AIR LOGISTICS CENTER, TINKER AIR FORCE BASE, Okla.

*Docket No. 97-806; Submitted on the Record;  
Issued June 18, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained an emotional or physical condition causally related to compensable factors of her federal employment.

On November 22, 1995 appellant, then a 36-year-old sales store checker, filed a notice of occupational disease alleging that her panic attacks were causally related to her federal employment. She stated that she first became aware on October 31, 1995 that her panic attacks were causally related to factors of her employment. In a narrative statement, appellant attributed the following factors related to her employment: On October 13, 1995 appellant found a \$50.00 overage slip in her till. She asked her supervisor, Ms. Kelly, whether she was the only employee with an overage and was told that another employee was \$65.00 over. Appellant stated that she was not aware of any extra money in her till and that no customer(s) had complained over being shortchanged money. On October 18, 1995 appellant was asked to sign a paper for the overage. She stated that she got emotionally upset thinking about signing a \$50.00 overage that was not hers and started experiencing a panic attack that produced such physical symptoms as nervousness, racing heart, and dizziness. Appellant took sick leave for the remainder of the day.

Appellant submitted medical documentation which documented a panic attack as early as October 1994. Medical documentation from Midwest City Regional Hospital dated October 22, 1995 indicated that appellant was diagnosed with an anxiety reaction and a history of panic attacks. In a May 22, 1996 report, Dr. John R. Smith, a Board-certified psychiatrist, opined that appellant's anxiety seemed to be directly related to her work experience. He stated that appellant experiences the workplace as being extremely hostile from the standpoint of her supervisors' behavior even though they may simply be enforcing strict regulations which concern all personnel. He stated that appellant is currently disabled from her employment and, to a large degree, because of it. No specific incidents were discussed.

In a September 25, 1996 decision, the Office denied appellant's claim on the grounds that fact of injury was not established as no compensable factors of employment were identified.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup>

To establish appellant's occupational disease claim that she has sustained an emotional condition in the performance of duty appellant must submit the following: (1) medical evidence establishing that she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.<sup>3</sup>

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 illness has some connection with the employment but nevertheless does not come within the concept of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as 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.<sup>4</sup>

In this case, appellant attributed the aggravation of her emotional condition to the administrative actions of the employing establishment in checking on the alleged overage and having her sign a paper for the overage. Generally, actions of the employing establishment in administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties, do not fall within coverage of the Act. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of personnel matters, coverage may be afforded.<sup>5</sup> To determine if abuse or error is shown regarding employing establishment action, the Board applies a reasonableness standard.<sup>6</sup> There is no evidence of record to establish that the employing establishment acted inappropriately in questioning appellant regarding the overage or having her sign a paper for the overage. Thus, from the allegations, there is no evidence of error or abuse by the employing establishment in checking on the overage and having appellant sign a paper for the overage.

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<sup>1</sup> *Id.*

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

<sup>4</sup> *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

<sup>5</sup> *Michael Thomas Plante*, 44 ECAB 510 (1993).

<sup>6</sup> *See Frederick D. Richardson*, 45 ECAB 454 (1994).

Appellant has not established any compensable factors of employment under the Act and, therefore, has not met her burden of proof to establish that she sustained an emotional condition in the performance of duty.<sup>7</sup>

The decision of the Office of Workers' Compensation Programs dated September 25, 1996 is hereby affirmed.

Dated, Washington, D.C.  
June 18, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Michael E. Groom  
Alternate Member

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<sup>7</sup> As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; *see Margaret S. Krzycki*, 43 ECAB 496 (1992).