

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ANGELA YOUNG and U.S. POSTAL SERVICE,  
POST OFFICE, Dadeville, AL

*Docket No. 01-985; Submitted on the Record;  
Issued December 18, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an emotional condition while in the performance of duty.

On March 8, 1999<sup>1</sup> appellant, then a 38-year-old window clerk, filed an occupational disease claim alleging that factors of her employment, such as understaffing and differences with her supervisor, caused job-related stress. Appellant stopped work on January 11, 2000.<sup>2</sup>

Accompanying her claim were her employment application, job description, reports, disability certificates and information from the employing establishment. In the position description for distribution and window clerk, the environmental factors included being able to work closely with others and working alone.

In a February 24, 2000 report, Isabell T. Moore, a counselor, stated that appellant was seen on four occasions. She noted that appellant did not have a history of mental problems or substance abuse, was happily married and was employed with the employing establishment for 15 years. Ms. Moore stated that appellant was tested for her level of depression and scored in the moderate-to-severe depression category and had severe anxiety (panic attacks) both of which were producing physical symptoms. She diagnosed primarily anxiety with major depression. Ms. Moore found that the patient did not have any previous history of treatment for mental or emotional conditions and her history up to now, was stable. She opined that appellant's condition was due primarily to working in her environment, which she attributed to a hostile and unfriendly attitude by her supervisor and the extra work she placed on appellant.

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<sup>1</sup> The record indicates that the claim and a package of materials from page 1 to 36 were received by the Office of Workers' Compensation Programs on April 4, 2000.

<sup>2</sup> The record reflects that appellant stopped work on January 11, 2000, returned on March 9, 2000 and was off again on March 11, 2000.

In an attending physician's report (Form CA-20) dated February 28, 2000, Dr. Philip A. Chafe, a general practitioner, diagnosed anxiety, panic attacks, insomnia and depression associated with her work conditions. In response to whether appellant had a history or preexisting disease or physical impairment, he indicated "yes" and wrote, "acid reflux disease." He further responded to the question of whether he believed appellant's condition was related to work by checking the box "yes."

In a March 31, 2000 statement, the employing establishment requested that appellant's claim be controverted as an employee's emotional reaction to administrative matters is not covered under the Federal Employees' Compensation Act. An undated and unsigned supervisor's statement accompanied the employing establishment's request.

In a June 15, 2000 letter, the Office advised appellant of the additional factual and medical evidence needed to establish her claim and requested that she submit such. Appellant was advised that submitting a rationalized statement from her physician addressing any causal relationship between her claimed injury and factors of her federal employment was crucial. Appellant was allotted 30 days to submit the requested evidence.

Appellant provided various disability slips from January 7 to May 31, 2000, keeping her off work for "job-related stress." No further explanation was provided.

On July 6, 2000 the Office received additional information. Appellant described the situations that she felt contributed to her condition. She stated that she worked on several occasions without a break and the postmaster had left for the day without leaving anyone on high level pay. She also cited several occasions when the postmaster refused to initial her deposit. Appellant also stated that she was not allowed to take a 10-minute break regardless of how many hours she worked and if she did get a break, it was usually before she opened the window. She offered that once she was on the window, no one helped her until her lunch break.

Appellant described her various duties and responsibilities. She stated that her claim for her illness was not a result of being passed over for a promotion. She indicated that she did not have a fear of her job being eliminated and that she was not insubordinate but rather she sometimes questioned doing things a certain way when she did not agree with something.

Appellant also discussed her leave, which she started depleting and her days off which were changed from Saturdays to Tuesdays. Appellant stated that when she asked if she could have Mondays, her supervisor explained that there was more work on Mondays and she could not have Mondays. Appellant further added that when she took leave on Saturday, her supervisor asked her if she was "doing this for spite." Appellant noted an argument with her supervisor on January 10, 2000, without disclosing the details and stated that the supervisor called her the name of another employee who was not very highly regarded.

In a July 26, 2000 reply to appellant's statement, her supervisor and postmaster, Rebecca Ray, stated that appellant was a very efficient clerk who worked with minimal instructions. She stated that when she was on leave or in training, she would place appellant on higher level to manage the office in her absence. Ms. Ray offered that even if she did not instruct appellant to do so, appellant would take it upon herself to do other tasks such as

completing her paperwork when she was in the office. Ms. Ray also stated that appellant did not always perform her tasks as instructed, citing a couple of occasions when appellant overstepped her bounds by making a purchase without her supervisor's prior approval and having someone come in to work on the heating unit without her prior approval.

Ms. Ray responded to appellant's allegation that the time appellant took her lunch and 10-minute breaks were part of the problem causing her condition. She explained that appellant was asked on several occasions which lunch break she preferred and it was always the late lunch break. When she wanted an earlier break, the postmaster stated that she was flexible. Ms. Ray also explained that appellant always took her 10-minute break before she took to the window and never requested to take her break at a different time. Ms. Ray stated that it was appellant's decision to stop taking her 10-minute break. She also explained that appellant took her breaks at different times than she was instructed, as she wanted to work straight through so she could see her daughter in some activity.

Appellant's supervisor responded to her allegations that she would leave and not put anyone on a higher level pay by explaining that it was her prerogative to decide which employee would be placed on a higher level. She explained that if she was within 50 miles of the employing establishment, no one was placed on a higher level.

With regard to a promotion, Ms. Ray explained that she tried to help appellant obtain an officer in charge assignment but the position was filled and that is when she noted appellant's behavior become rebellious and insubordinate. She explained an incident that involved an instruction for a particular boxing time for the box up section and appellant was "snappy" regarding why she had not boxed the items during that time. Ms. Ray also explained that deposits did not require her signature and despite telling appellant that it was not necessary, appellant kept requesting that she initial her deposit. She stated that appellant was also having personal problems that involved her father running for mayor, her health, which included trying to stop smoking, and family problems. The supervisor confirmed that the employing establishment was short of help and stated that appellant had voluntarily been working her off day. When she confronted appellant regarding leaving early and letting another clerk have the remainder of the day, appellant continued to claim that she wanted to work all day on Saturdays with no indication that she was overworked or that her job was causing her stress. She also stated that, although the employing establishment was short of help, appellant did not do her job alone as there were two other clerks, who assisted with these duties.

Ms. Ray listed several occasions where appellant did not follow instructions including not working on the parcels first but last and not separating her money by denomination. Ms. Ray discussed the day appellant returned on March 10, 2000 and was informed that her off day would be Tuesday. She stated that appellant requested that her off day be Monday, but she explained that Mondays were heavy workdays for the mail and that she would consider it, but for now, her off day was Tuesday.

In a December 20, 2000 decision, the Office found that the evidence was not sufficient to establish that appellant sustained an injury at the time, place and in the manner alleged.

The Board finds that appellant failed to establish that she sustained an emotional condition in the course of employment.

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 coverage of workers compensation. These injuries can occur in the course of employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen in the course of employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or to secure a promotion. On the other hand, where disability from an emotional reaction to his regular or assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Act.<sup>3</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition for disability, the Office 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.<sup>4</sup> If a claimant does indicate a compensable factor of employment, the Office should then determine whether the evidence of record substantiates that factor. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.<sup>5</sup> When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.<sup>6</sup>

In this case, appellant alleged that her emotional condition resulted from her office being understaffed. The Board must, thus, initially review whether the alleged incident is a covered factor of employment under the terms of the Act.<sup>7</sup>

Appellant discussed her claims in terms of having job-related stress because the employing establishment was understaffed. In her statement, she described her duties and stated that there were now two of us on the window. She did not indicate what changes had occurred in the requirements of her position that differed from the work she had been doing during the course of her employment. In her employment application, the job description included the ability to work alone and with others. Appellant did not identify a specific factor that had changed in her job requirements. Her supervisor confirmed that appellant had been doing her

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<sup>3</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>4</sup> *See Gregory J. Meisenburg*, 44 ECAB 527 (1993); *Norma L. Blank*, 43 ECAB 384 (1992).

<sup>5</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

<sup>6</sup> *See Gregory J. Meisenburg and Norma L. Blank*, *supra* note 4.

<sup>7</sup> 5 U.S.C. §§ 8101-8193.

job for 14 years and acknowledged that, although they were short of help, appellant volunteered to work on her days off and to do extra work, never indicating that she was stressed. When asked if she would like to share her off day with another clerk, appellant did not wish to do so. Her supervisor also stated that there were two other clerks who helped out so appellant was not alone.

The Board has held that emotional reactions to situations, in which an employee is trying to meet his or her position requirements, when supported by sufficient evidence, are compensable.<sup>8</sup> Furthermore, where a claimant implicates workload as an employment factor, it is not necessary for purposes of compensability for the claimant to establish that he or she has a greater workload than others.<sup>9</sup> However, here, appellant has not established her claim her illness was due to being understaffed and alone, as the employing establishment confirmed there were two other workers and appellant also confirmed there were two other workers. Additionally, appellant volunteered to work extra hours and when asked to share the day off, she refused. In the instant case, appellant has not established being understaffed as a compensable factor regarding her workload.

Appellant also noted differences with her supervisor that were upsetting and hurtful and stated that “maybe these differences were onset because we are all working hard and long hours and it just gets difficult sometimes.” The evidence of record establishes that the differences with her supervisor were in regard to administrative matters and related to having deposits initialed, high level pay when the supervisor was out of the office, breaks and issues with respect to appellant’s leave and days off. The supervisor confirmed these instances which were administrative in nature. Appellant also alleged some type of argument with her supervisor without divulging the contents and stated that she was referred to as some other employee. The supervisor explained that appellant was advised to separate her money by denomination again and that appellant became argumentative because she did not see why they had to separate their money by denomination.

A supervisor’s discussion with a subordinate regarding his or her relationship with his or her other supervisors is an administrative function. Coverage under the Act may only be afforded for administrative functions of the employer if appellant establishes that the employer erred or acted abusively in carrying out its administrative function.<sup>10</sup> The record reflects that appellant questioned procedure in all of these instances. Appellant has not established that her employer erred or acted abusively. Therefore, appellant has not alleged a compensable factor of employment.

Appellant had alleged no other compensable factors of employment as causative of her emotional condition and has failed to meet her burden of proof to establish that she sustained an emotional injury while in the performance of duty. Therefore, the medical evidence relating to appellant’s condition need not be addressed.

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<sup>8</sup> *Richard H. Ruth*, 49 ECAB 503 (1998).

<sup>9</sup> *Id.*

<sup>10</sup> *See George A. Ross*, 43 ECAB 346 (1991).

The December 20, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
December 18, 2001

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Priscilla Anne Schwab  
Alternate Member