

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRENDA J. POWELL and U.S. POSTAL SERVICE,
POST OFFICE, Houston, TX

*Docket No. 01-696; Submitted on the Record;
Issued October 29, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant developed an emotional condition due to factors of her federal employment.

Appellant, a 40-year-old supervisor, filed a notice of occupational disease on June 16, 2000 alleging that she developed stress, depression and insomnia due to factors of her federal employment. By decision dated November 16, 2000, the Office of Workers' Compensation Programs denied appellant's claim finding that she failed to substantiate a compensable factor of employment.

The Board finds that appellant has failed to meet her burden of proof in establishing that she developed an emotional condition due to factors of her federal 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 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 to hold a particular position.¹

Appellant attributed her emotional condition to actions of her supervisor, Lorenza Ortiz, the postmaster. She stated that he required her to perform duties outside her job description including printing an excessive amount of his email and reminding him of meetings. Appellant also stated that Mr. Ortiz would approve her work and then make additional changes requiring appellant to reprint a large number of graphs. She stated that he accused her of driving and

¹ *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

damaging his official vehicle. Appellant related that she was required to work overtime and that Mr. Ortiz did not approve of this practice. She also stated that no one covered her desk while she was on vacation, resulting in excessive work when she returned. Appellant stated that when she returned, she was directed to train an employee for her position.

Mr. Ortiz responded on July 10, 2000 and denied that appellant was required to work outside of her job description. He stated that appellant's position did not involve supervising employees but instead that she worked for him in an administrative capacity. Mr. Ortiz stated that appellant exaggerated the amount of email that she received, that he did not blame appellant for damage to his car and that appellant was required to redo work because she neglected to proofread it. He further stated that appellant was not allowed to work overtime without permission. Mr. Ortiz agreed that appellant's desk was not covered while she was on vacation, but asserted that she received help when she returned.

Mr. Ortiz submitted a copy of appellant's job description and asserted that appellant exaggerated the amount of work that her position entailed. Appellant's position description listed her duties supervising a group of employees in administrative support activities including business mail, time and attendance, training and personnel.

Appellant's specific duties included generating mail and manpower reports as well as developing management data, generating an operating budget, collecting statistical data as well as reviewing reports, recording time and attendance, screening applicants for employment, training employee, maintaining records regarding grievances and seniority lists, administering of personnel programs and services, and supervising purchasing, mail classification and window operations. Mr. Ortiz asserted that appellant did not usually report time and attendance or maintain records associated with grievances and that she never administered personnel programs or supervised mail classification or employees in window services.

In support of her allegation of excessive email, appellant submitted lists of emails from October 1999 to June 2000. On March 28, 2000 appellant received approximately 30 emails from Mr. Ortiz. However, appellant did not submit any evidence regarding what she was required to do with these emails, *i.e.*, print them out, follow directions contained therein, or simply read them.

Appellant's allegations are essentially that she was required to work outside her job description and that she was overworked. If substantiated each of these alleged factors would constitute a compensable factor of employment. However, Mr. Ortiz denied these allegations and appellant has not submitted any additional evidence which establishes that she was indeed required to work outside her position description or that she was overworked. Without such evidence, appellant has failed to meet her burden of proof and the Office properly denied these factors.

Appellant also alleged that Mr. Ortiz accused her of damaging his vehicle. Mr. Ortiz also denied this allegation, and appellant has not established that the event occurred as alleged.

Due to the lack of supporting evidence, appellant failed to substantiate a compensable factor of employment and failed to establish that she developed an emotional condition due to factors of federal employment.

The November 16, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 29, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member