

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KATHLEEN HOWARD and U.S. POSTAL SERVICE,
CHICAGO-HAWTHORNE POST OFFICE, Chicago, IL

*Docket No. 02-415; Submitted on the Record;
Issued October 16, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

On May 14, 1999 appellant, then a 39-year-old letter carrier, filed a notice of occupational disease alleging that she suffered from depression, anxiety and mental stress as a result of her federal employment. Appellant stated that she was repeatedly harassed and verbally abused by her supervisor, that she was pressured to work overtime, that she had an increased workload and that she received a letter of warning and suspension, all of which allegedly contributed to her emotional condition. Dr. Kumar Moolayil, a Board-certified psychiatrist and neurologist, diagnosed appellant with depression on July 19, 1999 and stated that she was unable to work.

By decision dated October 26, 1999, the Office of Workers' Compensation Programs denied appellant's claim for an emotional condition finding that she had not established any compensable factors of employment. Appellant requested an oral hearing on October 29, 1999.

By decision dated June 1, 2000, the hearing representative found that appellant established that she had an increased workload as appellant was assigned to deliver additional DPS mail and affirmed the Office's October 26, 1999 decision as modified.

Appellant requested reconsideration on May 31, 2000. In support of her request appellant submitted a June 19, 2001 report, from Dr. Moolayil, a copy of an Equal Employment Opportunity decision and a claim for compensation (Form CA-7).

By decision dated August 28, 2001, the Office denied modification of the June 1, 2000 decision, finding that the medical evidence failed to establish that appellant sustained an emotional condition due to the specific compensable factor of employment.

The Board finds that appellant has not met her burden of proof to establish that she sustained an emotional condition while in the performance of duty.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by factors of her federal employment.¹ To establish appellant's claim that she sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; (2) medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.

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 occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the 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 results from an employee's emotional reaction to her regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.²

The Office found that appellant established a compensable factor of employment of overwork, since she was assigned to deliver additional mail in the form of DPS mail. The Board has found that overwork can be a compensable factor of employment if substantiated by the record.³ Appellant's burden, however, also includes providing rationalized medical opinion evidence establishing that the identified compensable employment factor is causally related to her emotional condition.

In a June 19, 2001 report, Dr. Moolayil did not provide a rationalized medical opinion that the accepted factor of overwork was a cause of appellant's depression and anxiety. He stated in his report that in 1998 appellant's supervisor started giving her additional work and that she had to work longer hours to finish the job. He also stated that appellant's supervisor would give her leave without pay and she would subsequently not get paid for the extra work. Dr. Moolayil also listed other allegations relayed to him by appellant and at the conclusion of his report stated: "all of the above pressures" and "harassment" caused an adjustment disorder, which eventually developed into major depression with panic attacks. Although Dr. Moolayil generally noted the accepted employment factor of overwork, his statement of "all of the above pressures" is too general and vague to establish a specific causal connection between appellant's

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

² *Donna Faye Cardwell*, 41 ECAB 730 (1990).

³ *William P. George*, 43 ECAB 1159 (1992).

increased workload and her emotional condition. In addition, Dr. Moolayil did not describe appellant's reaction to the additional work that was assigned. As stated above, appellant's burden includes providing rationalized medical opinion evidence establishing that the specific compensable employment factor is causally related to her emotional condition. The other evidence submitted by appellant is irrelevant in establishing any additional compensable factors of employment and the remaining medical evidence of record does not support the accepted factor of overwork.

As the evidence of record fails to establish that appellant sustained an emotional condition in the performance of duty, she has not met her burden of proof.

The August 28, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 16, 2002

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member