

The issue is whether appellant has established that she sustained an emotional condition causally related to a compensable work factor on April 8, 2005.

FACTUAL HISTORY

On May 1, 2005 appellant filed a recurrence of disability claim (Form CA-2a), alleging that her emotional condition had worsened.¹ She identified the date of recurrence of disability as April 8, 2005. In a brief undated statement, appellant stated, “I was doing my job and people around me started talking about guns and detectives.” The Office advised appellant by letter dated November 17, 2005, that it was developing her claim as a new injury.

In a narrative statement received by the Office on March 13, 2006, appellant stated that the conversation regarding guns and detectives had brought back memories of the December 2000 incident. She stated that she wanted to go home but was told she had to wait for a supervisor.

By decision dated April 4, 2006, the Office denied the claim for compensation. It found that the April 8, 2005 incident did not constitute a compensable work factor.

Appellant requested a hearing before an Office hearing representative which was held on August 16, 2006. She stated that on December 16, 2000 employees were told that, “somebody was coming back to harm somebody with a gun.” On April 8, 2005 appellant indicated that there were three or four coworkers sitting near her while she was sitting at her workstation. She stated that the coworkers “were talking about FBI’s in the building” and “talking and talking about guns.” According to appellant she began to cry and she went home.

By decision dated October 17, 2006, the hearing representative affirmed the prior Office decision. He found that appellant had not established a compensable work factor.

LEGAL PRECEDENT

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.² This burden includes the submission of detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.³ A claimant must also submit rationalized medical opinion evidence establishing a causal relationship between the claimed condition and the established, compensable work factors.⁴

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

¹ The record indicated that appellant had a prior claim accepted for post-traumatic stress disorder, based on a December 2000 incident involving a threat by a former coworker to return to the employing establishment and harm employees.

² *Pamela R. Rice*, 38 ECAB 838 (1987).

³ *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

⁴ *See Bonnie Goodman*, 50 ECAB 139, 141 (1998).

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 secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his or 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.⁵

ANALYSIS

The allegation in this case, is that on April 8, 2005 appellant, while sitting at her workstation, heard a conversation among several coworkers. She did not provide a detailed discussion of the actual conversation. According to appellant, there was a reference to detectives or FBI agents in the building, as well as talk about guns. As noted above, her burden of proof includes the submission of a detailed statement regarding the employment incident.

There is no evidence in the record to substantiate the allegation as a compensable work factor. While appellant was at work during the April 8, 2005 incident, the alleged conversation did not relate to the performance of her job duties. There is no evidence that there were any FBI agents in the building or that appellant had any contact with an FBI agent, a law enforcement officer or any weapon. It appears that appellant is alleging that the conversation referring to guns brought memories of a prior December 2000 incident. That incident, however, involved a threat from a former coworker. There is no indication that the conversation on April 8, 2005 involved any reference to the prior incident. Although appellant may not have liked the subject matter of the conversation, it is well established that not every statement uttered in the workplace will give rise to coverage under the Act.⁶

The Board finds that the record does not substantiate a compensable work factor on April 8, 2005. Appellant did not provide a detailed factual statement and the incident alleged does not relate to her day-to-day duties, specially assigned duties or any other requirement imposed by her employment. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.⁷

CONCLUSION

The evidence of record does not substantiate a compensable work factor on April 8, 2005 and, therefore, appellant did not meet her burden of proof.

⁵ *Lillian Cutler*, 28 ECAB 125 (1976).

⁶ *Charles D. Edwards*, 55 ECAB 258, 271 (2004).

⁷ *See Margaret S. Krzycki*, 43 ECAB 496 (1992).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated October 17 and April 4, 2006 are affirmed.

Issued: October 9, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board