

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

**B.B., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Berkeley, CA, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 09-1354  
Issued: February 1, 2010**

*Appearances:*  
*Hank Royal, for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On May 1, 2009 appellant filed a timely appeal from a May 5, 2008 merit decision of the Office of Workers' Compensation Programs denying her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has established an emotional or physical condition causally related to compensable work factors.

**FACTUAL HISTORY**

On October 19, 2007 appellant, then a 55-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that she sustained stress, as well as hypertension, headaches and muscle tension, causally related to her federal employment. She indicated the date of injury was September 25, 2007. In a narrative statement, appellant alleged a supervisor, Katrina Scott, approached her "and proceeded in a loud, abrasive and threatening manner, to embarrass and harangue me in front of my coworkers. She questioned me as to why I was not casing all the

Tuesdays' mail. I replied that I had cased more than the required reference volume of mail for 8 hours of work per established policies and procedures. She demeaned me and berated me by accusing me in a raised voice that I did not case enough mail for the eight hours of work." She also alleged that on September 19, 2007 the supervisor had questioned her in a threatening and confrontational manner regarding her reference volume. Appellant stated this incident did not adversely affect her because the supervisor was not her assigned supervisor on that day.

In a statement received on November 19, 2007, Supervisor Scott stated that on September 25, 2007 appellant was instructed in a respectful and professional manner to case all of her mail, the same information given to all the carriers regarding workload. As she discussed the workload, appellant stated that she was not going to discuss it further and left the workroom. Ms. Scott recorded appellant's absence as absent without leave (AWOL).

In response to a request for additional information, appellant submitted a letter on December 28, 2007 stating her encounter with Supervisor Scott on September 25, 2007 was the sole contributing factor to her emotional condition. She noted that on September 27, 2007 her supervisor denied her request for overtime, and she did not know if an overtime request for October 1, 2007 was approved. Appellant asked Ms. Scott why she had marked AWOL for September 25, 2007. She submitted three witness statements in support of her claim. An October 18, 2007 statement from a coworker whose name is illegible reported that the coworker heard Supervisor Scott on September 25, 2007 state in a loud voice that appellant must case all of her mail. Another coworker, Ms. Cruz, stated that the supervisor's voice was loud enough to attract her attention. A third witness, Mr. Quintero, reported he heard the supervisor speaking loudly to appellant on September 25, 2007.

By decision dated May 5, 2008, the Office denied the claim for compensation. It found that appellant had not established any compensable work factors.

### **LEGAL PRECEDENT**

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment.<sup>1</sup> 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.<sup>2</sup> A claimant must also submit rationalized medical opinion evidence establishing a causal relationship between the claimed condition and the established, compensable work factors.<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 coverage of

---

<sup>1</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

<sup>2</sup> *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>3</sup> *See Bonnie Goodman*, 50 ECAB 139, 141 (1998).

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 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.<sup>4</sup>

A reaction to an administrative or personnel matter is generally not covered as it is not related to the performance of regular or specially assigned duties.<sup>5</sup> Nevertheless, if the evidence demonstrates that the employing establishment erred, acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.<sup>6</sup>

### ANALYSIS

Appellant filed a traumatic injury claim, a form appropriate for an injury produced by incidents occurring within one workday. Although the Office discussed a September 19, 2007 incident as well, appellant identified the September 25, 2007 incident with Ms. Scott as the sole contributing factor to an injury. The allegation in this case was that the supervisor spoke in a loud and abusive manner that embarrassed appellant in front of her coworkers.

While the Board has recognized that a compensable factor may be established based on verbal abuse,<sup>7</sup> not every statement that is uttered in the workplace is sufficient to give rise to a compensable work factor.<sup>8</sup> Ms. Scott denied speaking to appellant in a disrespectful tone. The witness statements are of a general nature and indicate only that the supervisor raised her voice while speaking to appellant regarding her work. It is well established that a raised voice does not itself establish verbal abuse.<sup>9</sup> There is no probative evidence of record that is sufficient to establish verbal abuse by the supervisor in this case. While appellant may have felt uncomfortable with Ms. Scott's tone of voice, the Board finds that the evidence of record is not sufficient to establish verbal abuse. Appellant has not established a compensable work factor.

To the extent that appellant briefly discussed matters involving leave and overtime, these are administrative matters. As noted, administrative or personnel matters are compensable work factors only if the evidence establishes error or abuse by the employing establishment. The

---

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

<sup>5</sup> *See Brian H. Derrick*, 51 ECAB 417, 421 (2000).

<sup>6</sup> *Margreate Lublin*, 44 ECAB 945, 956 (1993).

<sup>7</sup> *David W. Shirey*, 42 ECAB 783 (1991).

<sup>8</sup> *David C. Lindsey, Jr.*, 56 ECAB 263 (2005).

<sup>9</sup> *Beverly R. Jones*, 55 ECAB 411 (2005); *Karen K. Levene*, 54 ECAB 671 (2003).

evidence of record does not substantiate evidence of error or abuse on the part of Ms. Scott in placing appellant on AWOL.

On appeal, appellant argues that the witness statements were not given adequate consideration, but as discussed, they establish only that her supervisor raised her voice, which is not sufficient to establish a compensable work factor. Based on the evidence of record, no compensable work factors have been substantiated. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.<sup>10</sup>

**CONCLUSION**

The Board finds that appellant has not established an emotional or physical condition causally related to a compensable work factor.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 5, 2008 is affirmed.

Issued: February 1, 2010  
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

---

<sup>10</sup> See *Margaret S. Krzycki*, 43 ECAB 496 (1992).