

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DORETHA CLECKLEY and U.S. POSTAL SERVICE,  
POST OFFICE, Merrifield, VA

*Docket No. 00-328; Submitted on the Record;  
Issued December 11, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
PRISCILLA ANNE SCHWAB

The issues are: (1) whether appellant sustained an emotional condition while in the performance of her duties; and (2) whether the Office of Workers' Compensation Programs properly denied her July 27, 1999 request for reconsideration.

On July 6, 1997 appellant, a supervisor of mails, filed an occupational disease claim asserting that the manager of distribution operations put her in a stressful situation that led to her hospitalization on June 26, 1997.

Appellant submitted medical records showing diagnoses of hypertension, diabetes, lupus and chronic chest pain. A July 1, 1997 note stated that appellant's blood pressure and blood sugar were poorly controlled due to stress. The physician recommended that appellant be off work for two to three months to manage her medical problems. A July 8, 1997 report stated that, appellant's diabetes and blood pressure had been very difficult to control. The physician stated: "We think that it is in part due to the high stress level she experiences at work."

The record shows that on June 26, 1997 the manager of distribution operations asked appellant to come into his office to discuss some issues. The purpose of the meeting was to investigate allegations by the mailhandlers union concerning comments appellant supposedly made. The manager reported that appellant became upset when asked questions about these allegations and advised him that she had job stress. The manager tried to explain that he was merely doing his job. He decided to move appellant to a less stressful work area, the manual letter operation. Appellant advised him that this would cause her more stress as she would have to learn another operation, but the manager explained that appellant had been a supervisor for 18 years and had supervised the letter operation before, so "this should not be hard." Appellant advised that she just wanted to be left alone. Fifteen minutes after appellant left the office the medical unit called the manager and asked him to transport appellant to the hospital.

Appellant asserted that the manager put her in a very stressful situation “by accusing me of false accusations and in the way he was asking.” Appellant stated that he led her to believe that he believed the accusers. When he told appellant that he would move her to the manual letter operation on July 5, 1997, she became very sick with pain in her chest, dizziness, weakness and nausea.

The record indicates that appellant filed an Equal Employment Opportunity (EEO) complaint alleging discrimination as to race, sex and physical disability and also alleging retaliation.

In a decision dated December 24, 1997, the Office denied appellant’s claim on the grounds that the evidence of record failed to substantiate a compensable factor of employment.

On August 4, 1998 appellant testified before an Office hearing representative. She implicated as causes of her condition her relocation from New York City, New York, to Merrifield, Virginia, the employing establishment’s failure to accommodate her medical condition; her noisy work environment; and her transfer to a different tour of duty.

In a decision dated October 16, 1998, the hearing representative affirmed the denial of appellant’s claim on the grounds that she had failed to establish a compensable factor of employment.

On July 27, 1999 appellant requested reconsideration and submitted a medical report supporting a causal relationship between the physical and emotional stresses of her job and her hypertension, angina pectoris, degenerative joint disease and severe depression.

In a decision dated August 19, 1999, the Office denied appellant’s request on the grounds that it neither raised substantive legal issues nor included new and relevant evidence.

The Board finds that the evidence of record is insufficient to establish that appellant sustained an emotional condition while in the performance of her duties.

Workers’ compensation law does not cover each and every injury or illness that is somehow related to employment.<sup>1</sup> An employee’s emotional reaction to an administrative or personnel matter is generally not covered. Thus, the Board has held that an oral reprimand generally does not constitute a compensable factor of employment,<sup>2</sup> neither do disciplinary matters consisting of counseling sessions, discussion or letters of warning for conduct;<sup>3</sup> investigations;<sup>4</sup> determinations concerning promotions and the work environment;<sup>5</sup> discussions

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>2</sup> *Joseph F. McHale*, 45 ECAB 669 (1994).

<sup>3</sup> *Barbara J. Nicholson*, 45 ECAB 803 (1994); *Barbara E. Hamm*, 45 ECAB 843 (1994).

<sup>4</sup> *Sandra F. Powell*, 45 ECAB 877 (1994).

<sup>5</sup> *Merriett J. Kauffman*, 45 ECAB 696 (1994).

about an SF-171;<sup>6</sup> reassignment and subsequent denial of requests for transfer;<sup>7</sup> discussion about the employee's relationship with other supervisors;<sup>8</sup> or the monitoring of work by a supervisor.<sup>9</sup> Nonetheless, the Board has held that error or abuse by the employing establishment in an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in an administrative or personnel matter may afford coverage.<sup>10</sup> Perceptions alone are not sufficient to establish entitlement to compensation. To discharge her burden of proof, a claimant must establish a factual basis for her claim by supporting her allegations with probative and reliable evidence.<sup>11</sup>

Appellant's claim implicates the actions of the employing establishment in administrative or personnel matters. However, stress resulting from an investigation, such as took place at the June 26, 1997 meeting with the manager of distribution operations, is not compensable. Neither is stress from a determination concerning promotion, reassignment or the work environment. To establish a compensable factor of employment, appellant must submit probative and reliable evidence showing that the employing establishment committed error or abuse. Her perceptions alone are insufficient. Because she has submitted no such evidence, she has failed to establish a factual basis for her claim.

The Board also finds that the Office properly denied appellant's request for reconsideration.

Section 10.606(b) of the Code of Federal Regulations<sup>12</sup> provides:

“(b) The application for reconsideration, including all supporting documents, must:

- (1) Be submitted in writing;
- (2) Set forth arguments and contain evidence that either:
  - (i) Shows that [the Office] erroneously applied or interpreted a specific point of law;
  - (ii) Advances a relevant legal argument not previously considered by [the Office] or;

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<sup>6</sup> *Lorna R. Strong*, 45 ECAB 470 (1994).

<sup>7</sup> *James W. Griffin*, 45 ECAB 774 (1994).

<sup>8</sup> *Raul Campbell*, 45 ECAB 869 (1994).

<sup>9</sup> *Daryl R. Davis*, 45 ECAB 907 (1994).

<sup>10</sup> *Margreate Lublin*, 44 ECAB 945 (1993).

<sup>11</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

<sup>12</sup> 20 C.F.R. § 10.606(b).

(iii) Constitutes relevant and pertinent new evidence not previously considered by [the Office].”

Section 608(b) provides that where the request is timely but fails to meet at least one of the standards described in section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.<sup>13</sup>

Appellant’s July 27, 1999 request for reconsideration was timely filed and she submitted in support of her request a medical opinion on the issue of causal relationship. This evidence is irrelevant, however, because it does not address the grounds upon which the Office denied her claim. Appellant submitted no new evidence tending to support that the employing establishment committed error or abuse in its administrative or personnel dealings with appellant. Thus, appellant has failed to meet any of the standards described in section 10.606(b)(2) and the Office properly denied her request for reconsideration.

The August 19, 1999 and October 16, 1998 decisions of the Office of Workers’ Compensation Programs are hereby affirmed.

Dated, Washington, DC  
December 11, 2000

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>13</sup> *Id.* § 608(b).