

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LORRAINE F. DILLON and DEPARTMENT OF THE NAVY,
NAVAL SUPPLY CENTER, Norfolk, Va.

*Docket No. 96-2208; Submitted on the Record;
Issued June 29, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof to establish that she sustained an emotional condition in the performance of duty.

The Board has duly reviewed the case record in the present appeal and finds that appellant did not meet her burden of proof to establish that she sustained an emotional condition in the performance of duty.

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 an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.¹ On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction in force or her frustration from not being permitted to work in a particular environment or to hold a particular position.²

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 employment factors.³ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁴

¹ 5 U.S.C. §§ 8101-8193.

² See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

³ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁴ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office of Workers' Compensation Programs, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁵ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁶

In the present case, appellant alleged that she sustained an emotional condition as a result of a number of employment incidents and conditions. By decision dated January 3, 1996, the Office denied appellant's emotional condition claim on the grounds that she did not establish any compensable employment factors. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

Appellant alleged she developed stress because her union steward proposed that she move to another building at the employing establishment. As previously noted, disability is not covered where it results from frustration from not being permitted to work in a particular environment or to hold a particular position.⁷ Moreover, the Board has previously held that denials by an employing establishment of a request for a different job, promotion or transfer are not compensable factors of employment under the Act, as they do not involve an employee's ability to perform her regular or specially assigned work duties, but rather constitute a desire to work in a different position.⁸ Appellant indicated she developed anxiety because the proposed move would place her in the same building with her estranged husband, but she did not articulate how this matter related to her work duties. In addition, it should be noted that the employing establishment honored appellant's request not to be transferred to the other building. Thus, appellant has not established a compensable employment factor under the Act in this respect.

Appellant alleged that on September 26, 1990 she received a disturbing telephone call at work from a woman who was having an affair with her husband. She did not, however, explain how this matter related to her regular or specially assigned work duties. Appellant alleged that a supervisor, Linda Griffin, wrongly denied her request for "emergency" leave on September 26, 1990. This allegation relates to an administrative or personnel matter, unrelated to the employee's regular or specially assigned work duties and does not fall within the coverage of the Act.⁹ Although the handling of leave requests is generally related to the employment, it is

⁵ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁶ *Id.*

⁷ See *Neil F. Carney*, 36 ECAB 289, 297-98 (1984).

⁸ *Donald W. Bottles*, 40 ECAB 349, 353 (1988).

⁹ See *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

an administrative function of the employer, and not a duty of the employee.¹⁰ However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.¹¹ In the present case, appellant did not submit any evidence to show that Ms. Griffin committed error or abuse with regard to the denial of leave.¹² Thus, appellant has not established a compensable employment factor under the Act with respect to these matters.

For the foregoing reasons, appellant has not established any compensable employment factors under the Act and, therefore, has not met her burden of proof in establishing that she sustained an emotional condition in the performance of duty.¹³

The decision of the Office of Workers' Compensation Programs dated January 3, 1996 is affirmed.

Dated, Washington, D.C.
June 29, 1998

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

¹⁰ *Id.*

¹¹ *See Richard J. Dube*, 42 ECAB 916, 920 (1991).

¹² Appellant also indicated that Ms. Griffin “made her life a living hell” and did not want her “to try and save her marriage,” but she did not provide any further clarification of these allegations.

¹³ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; *see Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).