

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDEANNE L. EMMETT and U.S. POSTAL SERVICE,
POST OFFICE, Seattle, Wash.

*Docket No. 96-995; Submitted on the Record;
Issued March 2, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained an emotional condition in the performance of duty.

The Board has duly reviewed the record on appeal and finds that the evidence fails to establish that appellant sustained an emotional condition in the performance of duty.

As the Board explained in the case of *Lillian Cutler*,¹ workers' compensation law does not cover each and every illness that is somehow related to one's employment. When an employee experiences emotional stress in carrying out her employment duties, or has fear and anxiety regarding her ability to carry out her duties, and the medical evidence establishes that the disability resulted from her emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability resulted from her emotional reaction to a special assignment or requirement imposed by the employing establishment or by the nature of her work. On the other hand, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation law because they are not found to have arisen out of employment, such as when disability results from 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.

The Board has held that reactions to actions taken in an administrative capacity are not compensable unless it is shown that the employing establishment erred or acted abusively in its administrative capacity. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably. The Board has also generally held that allegations alone by a claimant are insufficient without

¹ 28 ECAB 125, 129-31 (1976).

evidence corroborating the allegations.² Mere perceptions and feelings of harassment or discrimination will not support an award of compensation. The claimant must substantiate such allegations with probative and reliable evidence.³

In the narrative statement, supporting her claim of aggravated stress, appellant alleged that her son died on August 14, 1993 and that she sought the attention of her physician and a psychologist to help her deal with the trauma. On November 16, 1993 her supervisor informed her that her doctor's note was lost and requested that she get another one. Further, appellant was asked to have her doctor recommend that she work a half hour longer per day. Following this incident, appellant felt major stress. Her supervisor's statement the following day -- that appellant was not making her leaving time and needed to pick up her pace -- only added stress because appellant felt that her supervisor was mistaken. Before leaving on her route that day, appellant stopped to talk to her supervisor about what she had said and to clear the air. Her supervisor stated very curtly: "There is nothing more to talk about!" With that, appellant "lost it" and stated: "Just f_____g leave me alone! Just leave me alone!" They met with the shop steward and appellant was sent home on administrative leave. On November 18, 1993 she met with the postmaster, who showed no support or compassion. On November 19, 1993 there was a lot of mail and appellant had an appointment with her doctor at 3:00 p.m. Although she needed one-half hour of help, she was told there was no help; she would have to change the time of her appointment and carry all the mail herself. Appellant couldn't handle the stress and had to be driven to see her doctor because she was too upset to drive herself. On November 23, 1993 she received a call from one of her supervisors asking why she hadn't called to let him know she would be off. She explained that her husband had called on November 20, 1993 and that she had called on November 22, 1993. There was some discussion about changes having been made in the extension numbers, and the supervisor indicated that he would check the regulations to see if he could have appellant brought to a medical center. On November 26, 1993 appellant received a letter of warning based on her swearing and walking out of the office. Appellant disputed the particulars: She stated that she swore only once, not thrice, and that she and the supervisor had discussed her leaving with the shop steward. On the same day, her doctor's note was returned as insufficient. She was also asked to correctly fill out her leave slip. Summarizing matters, appellant alleged that she received a lack of support and respect following her son's unexpected death, and that she would still be working had her employer been just a little patient and shown a little more understanding.

There is no question in this case that appellant, following the unexpected death of her son, experienced stress in dealing with her supervisor. This alone, however, is not sufficient to establish entitlement to compensation benefits. The evidence must establish error or abuse by the supervisor. To the extent that appellant attributes her stress condition to the administrative actions taken by her supervisor, the Board finds that the evidence fails to establish that any of these actions were erroneous or abusive. To the extent that appellant attributes her stress condition to the manner in which the supervisor interacted with her, there is some support in the record that appellant and her supervisor spoke in an angry manner on one occasion but nothing

² *Joe E. Hendricks*, 43 ECAB 850, 857-58 (1992).

³ *Joel Parker, Sr.*, 43 ECAB 220, 225 (1991).

in the record to demonstrate abuse or harassment. Even if it were accepted that the supervisor could have shown a little more patience, understanding and support, this would not provide a basis for the payment of compensation benefits. The Office of Workers' Compensation Programs' February 10, 1995 decision properly denied appellant's claim, and the Board will affirm that decision accordingly.

The February 10, 1995 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
March 2, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member