

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY F. PAYNE and DEPARTMENT OF AGRICULTURE,
Greenbelt, MD

*Docket No. 98-858; Submitted on the Record;
Issued October 20, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

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

The Board has duly reviewed the case on appeal and finds that appellant failed to meet her burden of proof in establishing an emotional condition.

Appellant filed a claim on April 18, 1997 alleging that on March 19, 1997 she sustained an emotional condition due to a verbal dispute with a coworker. The Office of Workers' Compensation Programs denied appellant's claim by decision dated August 28, 1997. Appellant requested reconsideration and by decision dated November 17, 1997, the Office reviewed appellant's claim on the merits.

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 concept of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment to hold a particular position.¹

Appellant, the branch secretary, attributed her emotional condition to a conversation with Lyndia V. Countee, a team leader, on March 19, 1997. Appellant stated that Ms. Countee verbally attacked her, questioning why appellant had not followed procedures in sending a fax. She alleged that Ms. Countee asserted that appellant did not know how to process invoices. Appellant stated that she discussed the situation with Ms. Countee on two other occasions on March 19, 1997. In a later statement, appellant alleged that Ms. Countee pointed her finger at her and berated her in a harsh and powerful tone. Appellant stated that Ms. Countee shouted at

¹ *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

her. She alleged that Ms. Countee harassed her and acted abusively as she was not appellant's supervisor.

Ms. Countee submitted a statement dated May 27, 1997 and agreed that she discussed the fax transmittal procedure with appellant on three occasions on March 19, 1997. However, she alleged that appellant became upset, argued and raised her voice. Ms. Countee stated that she spoke to appellant in a cordial, polite and professional manner.

To the extent that disputes and incidents alleged as constituting harassment by coworkers and supervisors are established as occurring and arising from appellant's performance of her regular or specially assigned duties, these could constitute employment factors.² Verbal altercations and difficult relationships, when sufficiently detailed by the claimant and supported by the record, may constitute factors of employment.

In the instant case, the evidence does not establish harassment or verbal abuse by Ms. Countee. Appellant has submitted no evidence in support of her allegations that Ms. Countee raised her voice or attempted to intimidate her. Ms. Countee denied appellant's allegations and suggested that appellant instead raised her voice. As appellant has not submitted the necessary factual evidence to establish that her allegations are compensable under the Federal Employees' Compensation Act, appellant has failed to meet her burden of proof in this case.

The November 17 and August 28, 1997 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
October 20, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

² *Christophe Jolicoeur*, 49 ECAB ____ (Docket No. 96-597, issued June 11, 1998).