

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BILLY D. GRUBBS and U.S. POSTAL SERVICE,
POST OFFICE, Fort Worth, TX

*Docket No. 99-1775; Submitted on the Record;
Issued October 18, 2000*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an emotional condition causally related to compensable factors of his federal employment.

Appellant filed a traumatic injury claim alleging that he sustained an emotional condition causally related to an incident involving a supervisor, Mike Seavers, on November 19, 1997. In a decision dated June 17, 1998, the Office of Workers' Compensation Programs denied the claim, finding that appellant had not established a compensable work factor as contributing to an emotional condition. By decision dated March 24, 1999, an Office hearing representative affirmed the prior decision.

The Board has reviewed the record and finds that appellant has not established a compensable work factor as contributing to an emotional condition.

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.¹ To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.²

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 workers' compensation. These injuries occur in the course of the employment and have some

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

² *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

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.³

In this case, appellant alleged that he had purchased a tool with his own money, and sought reimbursement. His supervisor, Ralph Gutzler, was not available, so he went to Mr. Seaver's office. Appellant indicated that Mr. Seavers would not authorize the purchase and advised appellant to go through the chain of command. According to appellant, Mr. Seavers then turned his back on him and let the door close. In a December 29, 1997 statement, Mr. Seavers stated that he advised appellant he would not sign the purchase form until an appropriate manager had approved the purchase.

It is well established that administrative or personnel matters, although generally related to employment, are primarily managerial functions of the employer rather than duties of the employee.⁴ The Board has also found, however, that an administrative or personnel matter may be a factor of employment where the evidence discloses error or abuse by the employing establishment.⁵ In determining whether the employing establishment erred or acted abusively, the Board considers whether the employing establishment acted reasonably.⁶ Thus, administrative actions are compensable only if it is established that such actions were erroneous or abusive.

In this case, there is no probative evidence of error or abuse. There is no evidence, for example, that Mr. Seaver's decision not to sign a purchase authorization prior to approval by appellant's immediate supervisor, Mr. Gutzler, was erroneous. Appellant acknowledged that employees were supposed to get approval before making purchases. The fact that this procedure may not have been followed on occasion does not prove that Mr. Seaver acted abusively in asking appellant to follow the rule. Thus, the Board finds that Mr. Seavers did not commit error or abuse in his supervisory direction to appellant. Therefore, this incident cannot be considered a factor of employment.

With respect to appellant's allegation that Mr. Seavers turned his back on him and closed the door, even if this were accepted as factual, it is not such an unreasonable action that it rises to the level of error or abuse.

The Board notes that appellant submitted a February 26, 1998 statement that discussed incidents at work occurring before November 19, 1997. Appellant generally discussed incidents

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Anne L. Livermore*, 46 ECAB 425 (1995); *Richard J. Dube*, 42 ECAB 916 (1991).

⁵ *See Michael Thomas Plante*, 44 ECAB 510 (1993); *Kathleen D. Walker*, 42 ECAB 603 (1991).

⁶ *Anna C. Leanza*, 48 ECAB 115 (1996).

involving Mr. Gutzler and noted that he had attempted to file Equal Employment Opportunity (EEO) complaints.

To the extent that appellant is expanding his claim to an occupational disease or illness claim based on harassment or discrimination, he has not submitted probative evidence establishing compensable work factors. With respect to a claim based on harassment or discrimination, the Board has held that actions of an employee's supervisors or coworkers which the employee characterizes as harassment may constitute a factor of employment giving rise to a compensable disability under the Act. A claimant must, however, establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.⁷ An employee's allegation that he or she was harassed or discriminated against is not determinative of whether or not harassment occurred.⁸

In this case, appellant has not submitted probative evidence with respect to an allegation of harassment or discrimination. Appellant did not submit EEO findings, witness statements, or other probative evidence. Moreover, the record does not establish error or abuse with respect to the November 19, 1997 incident. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.⁹

The decisions of the Office of Workers' Compensation Programs dated March 24, 1999, and June 17, 1998 are affirmed.

Dated, Washington, DC
October 18, 2000

David S. Gerson
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁷ *Gregory N. Waite*, 46 ECAB 662 (1995); *Barbara J. Nicholson*, 45 ECAB 803 (1994).

⁸ *Helen P. Allen*, 47 ECAB 141 (1995).

⁹ *See Margaret S. Krzycki*, 43 ECAB 496 (1992).