

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHARON R. ROCHESTER and U.S. POSTAL SERVICE,
POST OFFICE, Largo, FL

*Docket No. 99-2416; Submitted on the Record;
Issued May 23, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained an emotional condition while in the performance of her duties.

On June 30, 1998 appellant, then a 48-year-old postmaster, filed an occupational disease or illness claim for work-related stress, depression and anxiety. Appellant alleged that her condition was directly caused by the way her boss, Dennis Lafreniere, had treated her. Mr. Lafreniere became her boss in November 1996 and from her first meeting with him she noticed that he used a lot of profanity, was not a good listener and regarded others as inferior. Appellant described a number of interactions with Mr. Lafreniere. Appellant alleged: Mr. Lafreniere addressed her in a very demeaning, loud and vicious tone; he did not like her personality; that she needed improvement; he did not like the way she managed and that she acted unprofessional; he ordered her not to report a wrist injury; he told appellant not to deliver postage-paid bulk business mail to a certain customer; he spoke to appellant in a mean and vindictive voice and told her to approve overtime for a food drive; Mr. Lafreniere was furious with appellant for agreeing to suspend an employee for a vehicle accident instead of firing him; he made demeaning remarks such as "you do n[o]t know what you [a]re doing." She also alleged: Mr. Lafreniere demeaned several postmasters to the point of tears on October 23, 1997; he ordered appellant to make budget at all cost even if it meant not delivering business mail, which eventually piled up to the point that it was difficult to walk in the aisles; she was given two days to clean up the mail that had been piling up since October 24, 1997, which could not be done; he "jumped all over" her about work hour usage; he threatened to remove appellant because of complaints to a congressman's office; he issued conflicting instructions; he gave her a letter of warning and he was abusive and demeaning about a prearbitration decision. Appellant alleged: Mr. Lafreniere told her that she was stupid while Izzy Medina was in the room; he sent her a scary e-mail referring to "black flagging" a postmaster; he threatened to remove her if workplace environment issues did not improve and she was required to work two Saturdays a month in addition to her regular work load. Appellant indicated that the president of the state professional association met with Mr. Lafreniere to discuss his treatment of postmasters; that he

had a scathing conversation with her about a checklist for impending route examinations; and that when she came back from vacation she was told that she was being indefinitely reassigned and was instructed to report to a lower-level manager. Appellant summarized her statement as follows: “For over a year I’ve endured threats, intimidation, humiliation, countless and repeated severe headaches and very few good nights of sleep. I had tried to be strong, I always have been and I am ashamed that I can no longer take this abuse.”

On appeal, appellant clarified that her claim “has to do with the way these messages were imparted to me in the demeaning, derogatory and contradictory manner,” that she was reassigned in a sneering and arrogant manner and that her boss was a liar, was verbally abusive and used profanity. Appellant attributes her emotional condition to the manner in which Mr. Lafreniere discharged his duties.

Mr. Lafreniere submitted several responses. He denied ranting and raving or ever implying or stating any tone or actual threat to appellant. Mr. Lafreniere denied any intention to “set up” appellant for removal. He denied retaliation. Mr. Lafreniere denied that postmasters were brought to tears or demeaned. He stated that he conducted himself in a professional manner when dealing with appellant in person or otherwise. He submitted statements to verify his professionalism and demeanor with those that report to him. One statement indicated that Mr. Lafreniere was “brief” with appellant on one occasion but did not appear to be abusive. This witness also stated that Mr. Lafreniere did not call appellant “stupid” or anything similar during the conversation in question. Another witness stated that she had nothing in her notes to indicate that Mr. Lafreniere had singled out appellant for negative comments. Another witness stated that during his tenure Mr. Lafreniere had never used profanity of which he was aware.

Mr. Lafreniere submitted a statement addressing appellant’s statement paragraph by paragraph. Generally, he denied appellant’s allegations or took issue with her perception of events or placed certain events in a different context or noted that he could not recall or confirm certain assertions. He denied using profanity, denied using a demeaning or vicious tone, denied telling her that he did not like her personality and denied indicating to her that she was unprofessional, though he might have indicated that “certain actions or comments may be unprofessional or that her style of management is autocratic.” Mr. Lafreniere strongly denied telling appellant not to report an injury. He admitted that he was incorrect in telling appellant not to deliver bulk business mail addressed to current resident. Mr. Lafreniere stated that during a telephone call concerning safety guidelines he was not furious but became frustrated with appellant’s decision process. Mr. Lafreniere denied telling postmasters to do whatever it took to make budget or to let business mail stack up. No one was demeaned, he stated, nor were any postmasters treated in an unprofessional manner. He denied ever calling appellant “stupid.” Regarding the “scary” e-mail referring to “black flagging” a postmaster, Mr. Lafreniere explained that he used a race car metaphor that was intended and accepted by all to be lighthearted. He denied making conflicting statements to appellant. Mr. Lafreniere stated that no one was required to work additional days, only different days. He stated that he did not demand or use anything but respect toward appellant. Mr. Lafreniere also stated that he had never had occasion to contact her at her home and that her fears regarding the vandalizing of her home were unwarranted and fabricated.

Mr. Lafreniere submitted a witness statement to support that he was businesslike but not demeaning toward appellant and had not used profanity. Appellant submitted a witness statement from another postmaster confirming that Mr. Lafreniere had used profanity with postmasters and had advised that the budget be met whatever it took, including delaying bulk mail if necessary. Appellant submitted a statement from another postmaster who confirmed that Mr. Lafreniere had instructed them to make the budget even if it meant holding color-coded mail and even delaying it. With respect to how Mr. Lafreniere had treated her, this postmaster attested that she had never been so dehumanized in her life, that Mr. Lafreniere humiliated her for 45 minutes during a meeting.

Mr. Lafreniere responded with another statement denying ever using profanity in postmaster meetings or using profanity to defame, accuse or slander any postmaster personally or otherwise. He noted that one of appellant's witnesses had never attended any meeting he had conducted and did not know firsthand how he interacted with postmasters.

In a decision dated May 19, 1999, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence failed to establish a compensable factor of employment.

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.¹ An employee's emotional reaction to an administrative or personnel matter is generally not covered. The Board has held, however, 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.² 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.³

In this case, appellant attributes her emotional condition to the manner in which her manager treated her. Generally, her emotional reaction to such conduct is not compensable under workers' compensation. To establish a compensable claim, the evidence must show error or abuse by the manager in the discharge of his duties. Appellant has alleged error or abuse, but her supervisor has submitted evidence to the contrary. The Board notes references by witnesses that the manager was "brief" and "businesslike but not demeaning" toward appellant. However, the statements do not substantiate appellant's account of abuse and viciousness. When all is considered, the evidence in this case provides an insufficient basis on which to find error or abuse in the exercise of the manager's discretion or in the discharge of his responsibilities. Although the Board has recognized the compensability of verbal abuse in certain circumstances,

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

² *Margreat Lublin*, 44 ECAB 945 (1993).

³ *Ruthie M. Evans*, 41 ECAB 416 (1990).

this does not imply that every statement uttered in the workplace will give rise to coverage.⁴ The Board has held that raised or loud voices do not constitute verbal abuse or harassment.⁵ And the evidence in this case fails to establish a specific instance of profanity directed toward appellant.

The record contains documents relating to Equal Employment Opportunity complaints, but there is no evidence of a final decision or finding establishing error or abuse by the manager.

Because the weight of the probative and reliable factual evidence fails to establish a compensable factor of employment, the Office properly denied appellant's claim for compensation.

The May 19, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 23, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

⁴ *Harriet J. Landry*, 47 ECAB 543 (1996).

⁵ *Judith A. Tobias*, Docket No. 98-1724 (issued April 14, 2000).