

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of VICTORIA HANDLE and U.S. POSTAL SERVICE,  
POST OFFICE, Monmouth, NJ

*Docket No. 01-566; Submitted on the Record;  
Issued October 2, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
PRISCILLA ANNE SCHWAB

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

On May 8, 2000 appellant, then a 46-year-old supervisor of distribution operations, filed a claim for an emotional condition alleging that, after serving as an acting manager on and off for eight years, she was removed from the position within three weeks after the arrival of a new plant manager. Appellant asserted that the position was given to a male without regard to her experience, knowledge and dedication. In a decision dated November 11, 2000, 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.

The Board 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 she claims compensation was caused or adversely affected by factors of her federal employment.<sup>1</sup> To establish her claim that, she 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.<sup>2</sup>

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<sup>1</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

<sup>2</sup> *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

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 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 her 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.<sup>3</sup>

In this case, appellant alleged that she suffered anxiety and work-related stress due to a higher level job which she had been doing for several years. She stated that a new plant manager after only three weeks abruptly removed her with the only explanation being that her time was up and that a business decision had been made. Appellant indicated that the plant manager said that she had not did anything wrong. Appellant asserted that a supervisor with less experience than she had been assigned to cover the manager position, which was what she had done for several years. Appellant stated that she felt alienated and was no longer involved in daily operations. She additionally asserted that she was subjected to rumors, derogatory remarks and ridicule while at work.

In a May 23, 2000 statement, Acting Plant Manager Doris Billingslea delineated the reasons why appellant was not promoted. She explained that she observed the tour operations assigned to appellant for approximately one month and was not satisfied with the manpower utilization, equipment utilizaiton or the tour structure. She stated that often times supervisors would stand idle, while appellant "scampered around fighting fires." Ms. Billingslea indicated that she spoke to appellant several times regarding these issues. She also asked appellant to increase the output on the machines and to reduce the amout of mail being distributed manually. She stated that she walked appellant through ways to reduce the manual volume. Appellant was extremely resistant.

Ms. Billingslea stated that she observed on more than one occasion that the supervisors did not respect appellant as a manager and would not follow her instructions. Ms. Billingslea indicated that appellant was on a detail assignment, which could be terminated at any time. She stated that generally, an employee is allowed a minimum of three months in a detail position. She indicated that this is what she had explained to appellant; not that her "time was up." Ms. Billingslea stated that when she relieved appellant of her detail assignment, she referred back to the many conversations they had had regarding work hours, productivity, etc. She indicated that she did not tell appellant that she had done anything wrong. She stated that appellant was told that it was a business decision to end her detail because of her lack of compliance with the initiatives set forth.

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<sup>3</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

Ms. Billingslea advised that appellant's belief that covering the manager position is not a detail was incorrect. She stated that it was a detail position and could be filled by any full-time postal supervisor, that it was a learning experience and was not assigned to the relief supervisory distribution operations position. Ms. Billingslea stated that although appellant may have done parts of the manager's job as a relief for many years, her observations did not lead her to believe that she had a clear understanding of the full requirements of the job. She stated that appellant seemed very resistant to change.

Ms. Billingslea also advised that she had never promised a promotion to appellant. She stated that there is a promotional panel, which is comprised of three managers. Each of the managers reviews the promotion package and submits three agreed-upon names to the selecting official. Ms. Billingslea indicated that appellant's name was never submitted to her as the selecting official.

Ms. Billingslea further indicated that, she had not heard any rumors or witnessed any derogatory remarks concerning appellant. Nor did she have any knowledge of any ridicule of appellant while she was at work.

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.<sup>4</sup> 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.<sup>5</sup> In determining whether the employing establishment erred or acted abusively, the Board considers whether the employing establishment acted reasonably.<sup>6</sup> 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 Ms. Billingslea's decision not to promote appellant or to remove appellant as an acting manager on a detail assignment was erroneous. Ms. Billingslea specifically advised that appellant was not selected by the promotional panel. She also stated that appellant was removed from her detail due to her lack of compliance with the initiatives set forth, her belief that appellant did not have a clear understanding of the full requirements of the job, and the fact that appellant seemed very resistant to change. Thus, the Board finds that Ms. Billingslea did not commit error or abuse in her supervisory direction to appellant. Therefore, appellant's lack of promotion and removal from a detail assignment cannot be considered factors of employment.

To the extent that appellant stated she was subjected to rumors, derogatory remarks and ridicule while at work, she did not submit probative evidence establishing compensable work factors. Ms. Billingslea denied any knowledge of such. With respect to a claim based on harassment or discrimination, the Board has held that actions of an employee's supervisors or

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

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

<sup>6</sup> *Anna C. Leanza*, 48 ECAB 115 (1996).

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.<sup>7</sup> An employee's allegation that he or she was harassed or discriminated against is not determinative of whether or not harassment occurred.<sup>8</sup>

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. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.<sup>9</sup>

The decision of the Office of Workers' Compensation Programs dated November 11, 2000 is affirmed.

Dated, Washington, DC  
October 2, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Priscilla Anne Schwab  
Alternate Member

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

<sup>8</sup> *Helen P. Allen*, 47 ECAB 141 (1995).

<sup>9</sup> *See Margaret S. Krzycki*, 43 ECAB 496 (1992).