

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ARVAY SMITH and U.S. POSTAL SERVICE,  
POST OFFICE, Chicago, IL

*Docket No. 02-342; Oral Argument Held July 17, 2002;  
Issued September 11, 2002*

Appearances: *Arvay Smith, pro se; Jim C. Gordon, Jr., Esq.,  
for the Director, Office of Workers' Compensation Programs.*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has established an emotional condition causally related to compensable work factors.

On September 19, 2000 appellant, then a 53-year-old distribution clerk, filed a claim alleging that she sustained emotional stress causally related to her federal employment. By decision dated March 19, 2001, the Office of Workers' Compensation Programs denied the claim, finding that appellant did not establish any compensable work factors as contributing to an emotional condition. In a decision dated December 12, 2001, an Office hearing representative affirmed the prior decision.

The Board finds that appellant has not established an injury causally related to compensable work factors.

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 her condition; (2) medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her 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 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.<sup>3</sup>

It is well established that administrative or personnel matters, although generally related to employment, are primarily administrative 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>

As outlined by appellant in a September 26, 2001 statement, the allegations in this case are that the employing establishment erred or acted abusively with respect to administrative matters involving appellant. Appellant indicated that she was not allowed to work in her preferred bid assignment, worked without proper supplies, had to help out across the street when there was a shortage of window clerks, was reassigned from a day shift to a night shift, received a three-day absence letter on January 8, 2000 and received a letter of warning in October 1999. She has alleged that these actions were erroneous and established disparate treatment by the employing establishment; there is, however, no probative evidence of record sufficient to substantiate a compensable work factor. Appellant indicated that she filed grievances and Equal Employment Opportunity (EEO) claims, but the record contains no findings of error or other relevant evidence. There are witness statements offering general observations of the workplace, without providing specific evidence supporting a finding of error or abuse.

In the absence of probative evidence with respect to error or abuse by the employing establishment in a specific administrative action, the Board finds that appellant has not establish a compensable work factor in this case. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.<sup>6</sup>

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

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

The decisions of the Office of Workers' Compensation Programs dated December 12 and March 19, 2001 are affirmed.

Dated, Washington, DC  
September 11, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member