

requested a detailed description of the conditions or incidents she believed caused or contributed to her illness. The Office also advised her to submit a narrative medical report providing a diagnosis and an opinion with an explanation as to how incidents of federal employment contributed to the condition.

Appellant submitted unsigned notes dated March 7, 2007, reflecting her complaints of headaches and hallucinations. She submitted March 10, 2007 nursing notes, bearing an illegible signature, describing symptoms of increased depression. The record contains an undated position description for an addiction therapist.

In a statement dated June 12, 2007, appellant identified conditions and incidents she believed caused her emotional condition. She claimed that she experienced daily stress due to the demands of her position at the busy outpatient substance abuse clinic. Her duties included preparing four or five, three- to four-hour assessments per day. After teaching two groups consisting of 30 to 60 people, she was required to enter notes on each individual. After conducting individual interviews lasting 30 to 50 minutes, she was required to prepare “biopsychosocials” on each client. She indicated that she often forgot paper work, misplaced items and was constantly behind in her duties.

Appellant stated that working with a client population consisting of individuals who were not only dealing with substance abuse issues, but who were also often violent and suicidal, caused her substantial stress. She alleged that, because she received no training in her position, she was confused and frustrated, while managing nearly 75 patients “with barely an understanding of what [the] program was supposed to accomplish.” No staff debriefings were held when clients committed suicide.

Appellant alleged that the employing establishment was a cold and uncaring place to work. She felt lonely, isolated and rejected while doing her job. She noted that she was “constantly under the gun” from her colleagues for missing a substantial amount of work due to a surgical procedure in 2006. She stated that she had many altercations with Mr. Lane, a coworker. On one occasion, he allegedly took appellant into her office, closed the door and yelled at her for failing to provide a 15-minute break to her group, stating “The groups deserve[] a 15-minute break, and if [you can’t] stick to the time frame, then we [will] take it up with Mr. Field.” She indicated that “the lack of staff support, the ignorance of procedures, the time consuming efforts to find places for these sick individuals, and not to mention all the ensuing, daily, overwhelming pages of progress notes that had to be entered before going home may have played a large part in my breakdown.”

Appellant submitted a September 22, 2005 progress note, signed by Willetta K. Jackson, a nurse, indicating that appellant’s screen for post-traumatic stress disorder was negative. The record contains an undated, unsigned partial progress note, reflecting a diagnosis of major depressive disorder, recurrent moderate.

In a report dated March 8, 2007, Dr. Dominic J. Maxwell, Board-certified in psychiatry, provided diagnoses of psychotic disorder, not otherwise specified, and depressive disorder. He stated that appellant’s thought process was vague and somewhat circumstantial. Dr. Maxwell noted no frank evidence of delusions or hallucinations. A March 30, 2004 intake note, prepared

by Amy D. Lott, reflects appellant's report of "worsened depression." September 19, 2005 emergency room triage notes, signed by Samie J. Pellegrine, a registered nurse, indicate that appellant presented with head pain.

By decision dated September 5, 2007, the Office denied appellant's claim. The Office found that appellant had established compensable factors of employment under *Cutler*,¹ including that her position involved a heavy workload in a busy workplace; new clients required intake every day by hand and computer entry; appellant handled four to five assessments per day, each lasting two to three hours; her case load included paranoid schizophrenics, who were often violent and volatile; many clients were suicidal; and four clients committed suicide during her employment. However, the claim was denied on the grounds that the medical evidence failed to demonstrate that appellant's claimed medical condition was causally related to the accepted work-related events.

LEGAL PRECEDENT

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 an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the 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. On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force, or her frustration from not being permitted to work in a particular environment or to hold a particular position.

Generally, actions of the employing establishment in administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties, do not fall within coverage of the Act. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of personnel matters, coverage may be afforded.² Assignment of work is an administrative function of the employer,³ as is an investigation by the employing establishment.⁴

Where the claimant alleges compensable factors of employment, she must substantiate such allegations with probative and reliable evidence.⁵ The fact that a claimant has established compensable factors of employment does not establish entitlement to compensation. The employee must also submit rationalized medical opinion evidence from a physician establishing that she has an emotional condition that is causally related to the compensable employment

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

² *Michael Thomas Plante*, 44 ECAB 510 (1993).

³ *James W. Griffin*, 45 ECAB 774 (1994).

⁴ *Jimmy B. Copeland*, 43 ECAB 339 (1991).

⁵ *Joel Parker, Sr.*, 43 ECAB 220 (1991).

factor.⁶ The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific compensable employment factors identified by appellant.⁷

ANALYSIS

Appellant alleged that she sustained an emotional condition as a result of conditions of her employment. The Office found that she established compensable factors of employment, but denied her claim on the grounds that she failed to submit medical evidence establishing that the claimed condition was causally related to accepted work factors.

The Board finds that appellant established compensable factors of employment to which she attributed her emotional condition. It is not contested that appellant's position involved a heavy workload in a busy workplace. Her regularly assigned duties included preparing four or five, three- to four-hour assessments per day; preparing notes on 30 to 60 clients after teaching classes; and conducting individual interviews lasting 30 to 50 minutes. She worked with violent, volatile individuals, many of whom were suicidal. In fact, several of her clients actually committed suicide. Appellant stated that the above-mentioned work duties were responsible for her psychotic disorder and depression. The Board finds that, under *Cutler*,⁸ these regular work duties constitute compensable factors of employment.⁹

Appellant also attributed her emotional condition to the cold and uncaring environment in the employing establishment. She stated that she felt lonely, isolated, and rejected while doing her job, and noted that she was "constantly under the gun" from her colleagues, who complained about her to her supervisors for missing a substantial amount of work. To the extent that disputes and incidents alleged as constituting harassment and discrimination are established as occurring and arising from appellant's performance of her regular duties, these could constitute employment factors.¹⁰ However, for harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment did in fact occur. Mere perceptions of harassment are not compensable under the Act.¹¹ Appellant has not provided any evidence to substantiate harassment or discrimination, as required.¹² Additionally, appellant's feelings of rejection and loneliness must be considered self-generated. Thus, the Board finds that

⁶ *James W. Griffin*, *supra* note 3.

⁷ *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁸ *See Lillian Cutler*, *supra* note 1.

⁹ *See Larry J. Thomas*, 44 ECAB 291, 300 (1992). (The Board found that the emotional reaction of a claimant who came upon a suicide victim during the course of his assigned duties was compensable).

¹⁰ *David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, 42 ECAB 603, 608 (1991).

¹¹ *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

¹² *See Joel Parker, Sr.*, *supra* note 5 at 225 (1991) (finding that a claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence).

appellant has not established a compensable employment factor under the Act with respect to these above-described allegations.

Appellant alleged that, on one occasion, Mr. Lane yelled at her for failing to provide a 15-minute break to her group, stating “The groups deserve a 15-minute break, and if [you can’t] stick to the time frame, then we [will] take it up with Mr. Field.” The Board has recognized the compensability of verbal abuse in certain circumstances. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under the Act.¹³ Appellant provided no evidence to corroborate when, where, or if the alleged statement was made. However, assuming *arguendo* that the statement was actually made, the Board finds that it does not constitute verbal abuse or harassment. While the statement may have engendered offensive feelings, they would not have sufficiently affected the conditions of employment to constitute a compensable factor.¹⁴ Appellant has not alleged, nor does the evidence reflect, that Mr. Lane posed any threat to her. The Board finds that appellant’s emotional reaction to Mr. Lane’s behavior must be considered self-generated, in that it resulted from her perceptions regarding his actions.¹⁵ Appellant also stated that she had many other altercations with Mr. Lane. However, she submitted no evidence to corroborate this allegation.

Appellant claimed that she was confused and frustrated due to lack of training; that no staff debriefings were held when clients committed suicide; and that the staff was not supported generally by management. The Board finds that appellant’s allegations in this regard relate to administrative or personnel matters, unrelated to her regular or specially-assigned work duties and do not fall within the coverage of the Act.¹⁶ Appellant has failed to establish that the employing establishment erred or acted abusively in these administrative matters; she has not provided any evidence substantiating her allegations. Additionally, the Board has held that an employee’s dissatisfaction with perceived poor management constitutes frustration from not being permitted to work in a particular environment and is therefore not compensable under the Act.¹⁷ Consequently, appellant has not established a compensable factor of employment with regard to these matters.

Appellant’s burden of proof is not discharged by the fact that she has established employment factors which may give rise to a compensable disability under the Act. To establish her occupational disease claim, appellant must also submit rationalized medical evidence establishing that her claimed conditions are causally related to the accepted compensable

¹³ See *Mary A. Sisneros*, 46 ECAB 155, 163-64 (1994); *David W. Shirey*, *supra* note 10.

¹⁴ See *Denis M. Dupor*, 51 ECAB 482, 486 (2000).

¹⁵ See *David S. Lee*, 56 ECAB 602 (2005).

¹⁶ See *Lori A. Facey*, 55 ECAB 217 (2004). See also *Janet I. Jones*, 47 ECAB 345, 347 (1996); *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

¹⁷ See *Cyndia R. Harrill*, 55 ECAB 522 (2004) (the Board noted that claimant’s reaction to perceived poor management must be considered self-generated in that it resulted from her frustration in not being permitted to work in a particular environment).

employment factors.¹⁸ While it is not disputed that appellant has an emotional condition, the medical evidence does not adequately explain how the accepted employment factors caused or contributed to her emotional condition.

In a March 8, 2007 report, Dr. Maxwell diagnosed psychotic disorder, not otherwise specified, and depressive disorder. He stated that appellant's thought process was vague and somewhat circumstantial, and noted no frank evidence of delusions or hallucinations. While he provided a definitive diagnosis, Dr. Maxwell offered no opinion as to the cause of appellant's diagnosed condition. He did not discuss appellant's work duties or provide any rationale to explain how or why the accepted employment factors caused or contributed to her emotional condition. Therefore, his report is of diminished probative value, and is insufficient to meet appellant's burden of proof.¹⁹

The record does not contain an opinion by any qualified physician supporting appellant's contention that her emotional condition was causally related to factors of her federal employment. The Board notes that appellant submitted notes and reports signed by a lay person and several nurses. As these reports were not signed by individuals that qualify as physicians under the Act, they do not constitute probative medical evidence.²⁰ Similarly unsigned notes of record, without proper identification, lack probative value.²¹

The Board finds that appellant has not submitted rationalized medical evidence establishing that her claimed condition is causally related to the accepted compensable employment factors.

CONCLUSION

Appellant has not met her burden of proof in establishing that she developed an emotional condition in the performance of duty.

¹⁸ See *William P. George*, 43 ECAB 1159 (1992).

¹⁹ *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006); *Michael E. Smith*, 50 ECAB 313 (1999). See also *Jimmie H. Duckett*, 52 ECAB 332, 336 (2001) (medical reports not containing rationale on causal relation are of diminished probative value).

²⁰ A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a "physician" as defined in 5 U.S.C. § 8101(2). Section 8101(2) provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopaths practitioners within the scope of their practice as defined by state law." See *Merton J. Sills*, 39 ECAB 572, 575 (1988).

²¹ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the September 5, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 17, 2008
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board