

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

**T.J., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
New Orleans, LA, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 10-1116  
Issued: February 14, 2011**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 12, 2010 appellant filed a timely appeal from a January 20, 2010 merit decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant sustained an emotional condition in the performance of duty.

**FACTUAL HISTORY**

On November 20, 2008 appellant, a 56-year-old acting postmaster, filed a traumatic claim for stress, anxiety and chest pains experienced while participating in an October 23, 2008 conference call that concerned the high rate of overtime usage. She alleged that this topic caused

her a great deal of stress and anxiety. Appellant stated that she collapsed on the floor and sustained facial, hand and mid-back contusions.<sup>1</sup>

Appellant submitted an e-mail, in which Dale Whittenberg, a coworker, described his frustrations with understaffing at the employing establishment facility. Mr. Whittenberg criticized the decisions made by management, which he faulted for the lack of manpower.

In an October 8, 2008 e-mail, Donnie Vercher, appellant's immediate supervisor, described the supervisory and staffing problems at several facilities. He noted that the Alexandria station had no station manager and was being operated with only one supervisor. Mr. Vercher acknowledged that the postmaster at the Alexandria station could not work 24 hours a day or by herself and correct the declining performance at the station. He stated that the understaffing at the Alexandria station was apparent and attributed the shortage to the fact that he did "not have anyone to send to Alexandria because no one wants to go anywhere in this state."

Appellant submitted an email, dated October 23, 2008, in which Naomi Lawler, a coworker, reported that appellant was taken to the hospital during a teleconference that day.

In a supplemental statement, appellant described her employment duties and responsibilities. She served as acting postmaster at the Alexandria station twice and had been short on supervisory personnel since August 4, 2008, consequently, she was required to perform the work of several supervisors. Appellant alleged working 60 to 80 hours a week, was mandated to work every Saturday and participate in two conference calls. She worked at this pace for three months, during which she alleged taking only four days' annual leave. On October 23, 2008 appellant collapsed after experiencing chest pains, shortness of breath, anxiety, high blood pressure and stress while on a conference call at work. She described the conference calls as stressful and intense.

On October 24, 2008 Dr. Hussein Monir Abdelhalim, Board-certified in family medicine, diagnosed hyperventilation syndrome, severe anxiety and depression. Appellant submitted hospital records diagnostic tests and illegible treatment notes.

On October 27, 2008 Dr. Charles Ugokwe, a neurologist, presented findings on examination and diagnosed syncope, migraine headache and facial pain.

By letter dated November 24, 2008, the employing establishment controverted appellant's claim.

By decision dated May 7, 2009, the Office denied the claim because appellant had not established her alleged emotional condition was caused by compensable employment factors.

On May 19, 2009 appellant requested an oral hearing.

On June 29, 2009 Dr. Abdelhalim reviewed appellant's history of injury and diagnosed acute myocardial infarction (MI) and hypertension. He noted that she suffered a catastrophic

---

<sup>1</sup> The record reflects appellant retired on January 2, 2009.

event at work and that her stressful and demanding job precipitated her condition. Addressing causal relationship, Dr. Abdelhalim stated: “high stress level can aggravate and trigger an [acute MI and hypertension].”

On October 20, 2009 Dr. Alfredo Torres, a Board-certified psychiatrist, presented findings on examination. He diagnosed major depressive disorder, mood disorder due to transient ischemic attack (TIA) and MI, alcohol dependence, pathological gambling and hypertension.

The Office’s Branch of Hearings and Review conducted a hearing on November 9, 2009 at which appellant and her representative were present. Appellant stated that she was acting postmaster at the Alexandria facility and that on October 21, 2009 she received a letter that informed her she was denied a permanent postmaster position.

Appellant explained that the daily conference call pertained to performance at the Alexandria facility and that 40 to 50 postmasters participated in these daily conference calls. She explained that one of her stations was not performing up to par because of a staffing shortage and that during the teleconference her managers stated: “it’s horrible how it looks, and that I needed to improve that particular station.” Appellant stated she was subjected to similar humiliation during several prior conference calls. Her manager accused her of not caring about her job. Appellant objected to her managers’ negative comments, explaining that the poor performance ratings were attributable to the fact that her facility was understaffed. She testified that while listening to her managers’ comments she became very upset, her blood pressure rose and she became dizzy. Appellant stated that her left arm became numb and then she passed out. She testified that, on June 18, 2009, she experienced another psychological breakdown which she attributed to thinking about her federal employment. However, appellant also admitted that she retired on January 2, 2009 and therefore was not federally employed on June 18, 2009.

By decision dated January 20, 2010, the Office hearing representative modified the Office’s May 7, 2009 decision to reflect that appellant had established overwork as a compensable employment factor. However, the hearing representative affirmed the remainder of the Office’s May 7, 2009 decision because the evidence of record did not demonstrate that the established employment factor caused a medically-diagnosed condition.

### **LEGAL PRECEDENT**

To establish her claim that she sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that she has an emotional or stress-related disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the stress-related condition is causally related to the identified compensable employment factors.<sup>2</sup>

---

<sup>2</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,<sup>3</sup> the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under the Federal Employees' Compensation Act. When an employee experienced emotional stress in carrying out his or her employment duties, and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his or her emotional reaction to a special assignment or to the requirements imposed by the employing establishment or by the nature of the work. A claimant must support his or her allegations with probative and reliable evidence. Personal perceptions alone are insufficient to establish an employment-related emotional condition.

An employee's emotional reaction to an administrative or personnel matter is generally not covered by workers' compensation. The Board has held, however, that error or abuse by the employing establishment in an administrative or personnel matter may afford coverage.<sup>4</sup>

### ANALYSIS

Appellant alleged that she sustained stress as an acting postmaster at the Alexandria Post Office due to overwork and because her post office was criticized during a teleconference on October 23, 2008. She had been informed on October 21, 2008 that she would be replaced as postmaster. The Office accepted overwork as a compensable employment factor.

Appellant's allegation regarding overwork is essentially that she sustained stress while carrying out the regular and specially assigned duties of her position. The record establishes that the Alexandria Post Office was understaffed, that positions could not be filled at the station, and in her capacity as acting postmaster, appellant worked in excess of 40 hours a week. Appellant has established overwork as a compensable factor of employment pursuant to the principles set out in *Cutler*.

The Board finds that appellant has not established any other compensable factors of employment.

Appellant alleged that the teleconference of October 23, 2008 caused her stress. She explained that one of her postal stations was severely understaffed and that her managers stated that the performance of this station "looked horrible." Appellant alleged being subjected to similar humiliation during several prior conference calls. Not every statement uttered in the workplace will give rise to coverage under the Act.<sup>5</sup> Appellant must establish that her supervisor's action in this administrative matter were in error or abusive. She explained that her stations were understaffed and that she was overworked. The fact that her managers

---

<sup>3</sup> 28 ECAB 125 (1976).

<sup>4</sup> *J.F.*, 59 ECAB 331 (2008); see generally *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

<sup>5</sup> *Harriet J. Landry*, 47 ECAB 543, 547 (1996).

acknowledged these problems during the teleconference does not establish error or abuse in their review of the station operations. Rather, appellant's managers were merely performing their duties in evaluating the status of the postal stations in question. There is no evidence of record that appellant's managers erred in discharging their administrative responsibilities during this teleconference.<sup>6</sup> Thus, appellant has not established a compensable employment factor under the Act with respect to the statements made during the teleconference.

Appellant also attributed her condition to being denied promotion from acting to permanent postmaster. An employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or to secure a promotion is generally not compensable under the Act. Determinations by the employing establishment concerning promotions and the work environment are administrative in nature and not a duty of the employee.<sup>7</sup> The Board has held that, unless the employing establishment erred or acted abusively in an administrative or personnel matter, there will be no coverage under the Act.<sup>8</sup> In this case, appellant submitted no evidence demonstrating that the employing establishment acted unreasonably in its administrative and personnel decisions.

Appellant established overwork as a compensable factor of employment. The Board must consider the medical evidence to determine whether she established that her diagnosed conditions were caused by overwork. Causal relationship is a medical issue that can only be proven by probative medical opinion evidence.<sup>9</sup>

Regarding the accepted factor of overwork, appellant has not provided sufficient medical opinion to establish that this factor caused her diagnosed conditions. On October 24, 2008 Dr. Abdelhalim diagnosed hyperventilation syndrome, severe anxiety and depression. On June 29, 2009 he diagnosed acute MI and hypertension. Dr. Abdelhalim stated that appellant had suffered a "catastrophic" event at work and opined that her stressful and demanding job precipitated her condition. This opinion is a vague statement based on appellant's history of injury. Dr. Abdelhalim did not provide full or accurate review of appellant's employment history or describe the accepted factor of overwork. He did not address appellant's mental status examination or list any prior history of emotional conditions. Dr. Abdelhalim did not offer a rationalized medical opinion explaining how appellant's overwork caused or aggravated the conditions he diagnosed. Although he stated that "high stress level can aggravate and trigger [acute MI and hypertension]," this is an opinion, which is not supported by a proper history of appellant's accepted factor of overwork or medical rationale explaining the physiologic process involved. For these reasons, Dr. Abdelhalim's opinion does not establish causal relationship.

---

<sup>6</sup> See *K.W.*, 59 ECAB 271 (2007).

<sup>7</sup> See *Thomas D. McEuen*, *supra* note 4.

<sup>8</sup> *Richard J. Dube*, 42 ECAB 916 (1991).

<sup>9</sup> Appellant submitted additional evidence on appeal. The Board may not consider evidence for the first time on appeal which was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c). See *J.T.*, 59 ECAB 293 (2008) (holding the Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision).

Dr. Torres diagnosed major depressive disorder, mood disorder due to TIA and MI, alcohol dependence, pathological gambling and hypertension. Dr. Ugokwe diagnosed syncope, migraine headache and facial pain. However, neither physician provided any opinion explaining how these conditions were caused by overwork. Consequently, their opinions are of diminished probative value.

### **CONCLUSION**

The Board finds appellant has not established she sustained an emotional condition in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the January 20, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 14, 2011  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

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

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