

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BARBARA BADGETT and DEPARTMENT OF THE NAVY,
NAVAL AIR WARFARE CENTER, China Lake, Calif.

*Docket No. 96-308; Submitted on the Record;
Issued April 2, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof in establishing that she sustained an emotional condition causally related to compensable factors of her federal employment.

The case has been before the Board on a prior appeal. In a decision dated April 18, 1995, the Board affirmed a decision of the Office of Workers' Compensation Programs dated December 21, 1993, finding that appellant had not alleged and substantiated compensable factors of employment as contributing to an emotional condition.¹ The history of the case is contained in the Board's prior decision and is incorporated herein by reference.

In a letter dated June 9, 1995, appellant requested reconsideration of her claim and submitted additional medical evidence. By decision dated October 26, 1995, the Office reviewed the case on its merits and denied modification.

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

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.² 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

¹ Docket No. 94-1503.

² *Pamela R. Rice*, 38 ECAB 838 (1987).

disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.³

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.⁴

In support of her June 9, 1995 request for reconsideration, appellant submitted a June 27, 1994 report from Dr. Erlinda E. Belvis, a psychiatrist, and a June 9, 1994 report from Dr. Prasad Sripada, a psychiatrist. As the Board indicated in its prior decision, appellant must first establish a compensable factor of employment before the medical evidence is reviewed on the issue of causal relationship between an emotional condition and employment.⁵ Dr. Belvis and Dr. Sripada provide histories which discuss appellant's allegations of stress at work, many of which are similar to allegations previously raised by appellant. Dr. Belvis reported some specific allegations that apparently had not been raised earlier; he reports, for example, that appellant stated that her old supervisor had accused her of stealing files, and her new supervisor had advised her that she could not work in purchasing anymore. To the extent that appellant is alleging such incidents contributed to an emotional condition, she must substantiate the allegations as compensable factors of employment. The employing establishment submitted a statement dated September 29, 1995 refuting these allegations, and appellant has not submitted probative evidence in support of her allegations. Appellant has not submitted evidence supporting unfair treatment or harassment by her supervisor, nor has she submitted evidence of error or abuse by the employing establishment in an administrative or personnel matter.⁶

The Board therefore finds that appellant has not substantiated a compensable factor of employment. It is appellant's burden of proof to establish her claim, and the Board finds that she has not met her burden of proof in this case.⁷

³ See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁴ *Lillian Cutler*, 28 ECAB 125 (1976).

⁵ *Margaret S. Krzycki*, 43 ECAB 496 (1992).

⁶ See *Richard J. Dube*, 42 ECAB 916 (1991).

⁷ The record contains additional evidence received by the Office after October 26, 1995, but the Board cannot review such evidence since it was not before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated October 26, 1995 is affirmed.

Dated, Washington, D.C.
April 2, 1998

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member