

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GWENDOLYN MACKINNON and DEPARTMENT OF HEALTH &
HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION,
CARROLWOOD BRANCH OFFICE, Clearwater, Fla.

*Docket No. 96-1751; Submitted on the Record;
Issued April 22, 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 to establish an emotional condition in the performance of duty.

The Board has given careful consideration to the issue involved and the entire case record. The Board finds that the March 15, 1996 decision of the hearing representative of the Office of Workers' Compensation Programs is in accordance with the facts and law in this case and hereby adopts the decision.¹

¹ When an employee has asserted a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the medical evidence is then reviewed to determine whether the employee sustained an injury due to the compensable work factor; *see Gregory J. Meisenberg*, 44 ECAB 527 (1993). In this case, while the Office hearing representative reviewed the medical evidence, the actual basis for denial of appellant's claim was on account of a lack of a factual basis to support her claim for improper treatment from the employing establishment and specifically from her supervisor, appointed as the supervisor in February 1992. The Board notes that while appellant indicates her problems stemmed from challenging a performance appraisal in the fall of 1991, and the assignment of a new supervisor in February 1992, the factual evidence she submitted does not establish error or abuse with respect to the administration of personnel matters. She was disciplined in the spring of 1992 for not following proper procedures on claims, and in the summer of 1992 her work was monitored closely. While she alleged an emotional condition from the close monitoring of her work, including a formal performance improvement plan, reactions from such monitoring are not compensable; *see Daryl R. Davis*, 45 ECAB 907 (1994). Neither are reactions from disciplinary action compensable, including the three-day suspension in the spring of 1992, and the proposed termination in 1994 for failure to perform her job properly. *Mary L. Brooks*, 46 ECAB 266 (1994); *Martha L. Watson*, 46 ECAB 407 (1995). While appellant described a scenario where she felt she could not improve both qualitatively and quantitatively sufficient for her supervisor's approval, she has not demonstrated improper conduct to support a claim for an emotional condition under the Federal Employees' Compensation Act. In addition, while her request for a transfer to the Tampa office was considered, the denial of a request for transfer does not establish a basis for a compensable factor of employment. *Michael Thomas Plante*, 44 ECAB 510 (1993).

The decision of the Office of Workers' Compensation Programs dated March 15, 1996 is hereby affirmed.

Dated, Washington, D.C.
April 22, 1998

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member