

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA A. GALE and U.S. POSTAL SERVICE,
OPERATIONS PROGRAMS SUPPORT, Little Rock, Ark.

*Docket No. 96-587; Submitted on the Record;
Issued February 5, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant sustained an emotional condition in the performance of duty causally related to factors of her employment.

On July 14, 1995 appellant, then a 55-year-old manager, filed an occupational disease claim alleging that she sustained a stress condition which she attributed to her federal employment. She alleged that the employing establishment did not grant her a promised raise in salary after she relocated from Texas to Arkansas and then later would not grant her a position in Texas.

In a report dated May 18, 1995, Dr. Albert R. Thompson, a Board-certified otolaryngologist of professorial rank, diagnosed a neurological disorder, spasmodic dysphonia.

In an undated report received by the Office of Workers' Compensation Programs on July 17, 1995, Dr. Thompson stated that appellant had a voice disorder called spasmodic dysphonia and that the cause of the disorder was unknown but that stress aggravated the condition.

The case record contains a medical case study dated July 13, 1991 and entitled "Adductor Spasmodic Dysphonia" written by a Dr. Nancy G. Jones in which Dr. Jones discusses the case of a 32-year-old registered nurse who had developed spasmodic dysphonia at the age of 28.

In a letter dated August 3, 1995, an employing establishment injury compensation specialist denied appellant's allegation that the employing establishment did not honor an agreement to increase her salary when she relocated from Texas to Arkansas. The compensation specialist stated that appellant had requested a percentage increase higher than the district manager was permitted to approve but that he had awarded her the highest raise that his approval authority allowed. The specialist noted that appellant had some family health difficulties in

Texas which she had not mentioned and that this could have contributed to her condition. The specialist noted that appellant was later offered a position in Texas but declined the position.

In a letter dated September 21, 1995, Dr. Thompson stated that spasmodic dysphonia, appellant's condition, was thought to be a neurological disorder whose etiology was unknown but that working in stressful conditions clearly made the disorder worse. Dr. Thompson stated, "I feel that the condition is work related in that stressful situations can make the voice worse and communication can be disrupted to such a degree that the affected individual simply cannot communicate."

By decision dated October 12, 1995, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to establish that she had sustained an emotional condition causally related to factors of her employment.¹

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained an emotional condition in the performance of duty.

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 duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.² 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.³

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 employment factors.⁴ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁵

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are

¹ In its decision, the Office erroneously stated that appellant had been experiencing the condition for 28 years. Apparently the Office had confused the case study of the registered nurse with appellant's condition.

² 5 U.S.C. §§ 8101-8193.

³ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Pamela R. Rice*, 38 ECAB 838 (1987).

⁵ *Effie O. Morris*, 44 ECAB 470 (1993).

deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁶ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁷

Regarding appellant's allegations that the employing establishment denied her a raise in salary and a position that she wanted, the Board has held that denials by an employing establishment of a request for a different job, promotion or transfer are not compensable factors of employment under the Act, as they do not involve appellant's ability to perform her regular or specially assigned work duties, but rather constitute appellant's desire to work in a different position.⁸ Disability is not covered where it results from frustration from not being permitted to work in a particular environment or to hold a particular position.⁹ Thus, appellant has not established a compensable employment factor under the Act in this respect.

For the foregoing reasons, appellant has not established any compensable employment factors under the Act and, therefore, has not met her burden of proof in establishing that she sustained an emotional condition in the performance of duty.¹⁰

The October 12, 1995 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
February 5, 1998

George E. Rivers
Member

David S. Gerson

⁶ See *Margaret S. Krzycki*, 43 ECAB 496 (1992); *Norma L. Blank*, 43 ECAB 384 (1992).

⁷ *Id.*

⁸ *Donald W. Bottles*, 40 ECAB 349 (1988).

⁹ See *Eileen P. Corigliano*, 45 ECAB 581 (1994); *Neil F. Carney*, 36 ECAB 289 (1984).

¹⁰ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; see *Margaret S. Krzycki*, *supra* note 6.

Member

A. Peter Kanjorski
Alternate Member