

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARGARET A. BROOKS and DEPARTMENT OF THE AIR FORCE,
MAXWELL AIR FORCE BASE, Ala.

*Docket No. 96-2295; Submitted on the Record;
Issued July 28, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an emotional condition in the performance of her federal employment.

The Board has duly reviewed the case record and finds that this case is not in posture for decision.

In the present case, appellant, a computer operator, filed a claim alleging that she sustained an emotional condition in the performance of her federal employment, which she attributed to harassment by a new supervisor commencing in September 1991 and implementation of a new computer system. Appellant stopped work on May 21, 1993 and returned to work on December 20, 1993. The Office of Workers' Compensation Programs denied appellant's claim by decisions dated September 28, 1993, July 28, 1994, October 30, 1995 and June 25, 1996.

Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. When an employee experiences emotional stress in carrying out his employment duties or has fear and anxiety regarding his ability to carry out his duties and the medical evidence establishes that the disability resulted from his emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of the employment. The same result is reached when the emotional disability resulted from the employee's emotional reaction to a special assignment or requirement imposed by the employing establishment or by the nature of the work. In contrast, a disabling condition resulting from an employee's feelings of job insecurity *per se* is not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of the Federal Employees' Compensation

Act. Nor is disability covered when it results from such factors as an employee's frustration in not being permitted to work in a particular environment or to hold a particular position.¹

The evidence of record establishes that appellant had been employed as a mainframe computer operator at the employing establishment for a period of 20 years and had been evaluated as an excellent employee throughout the years. Appellant has alleged that her new supervisor as of September 1991 was abusive towards her by monitoring her telephone calls, requiring leave slips for work absences and eliminating "comp time" and not providing proper training for the new computer system. Although administrative and personnel matters are generally related to the employment, they are functions of the employer and not duties of the employee.² Thus the Board has held that reactions to actions taken in an administrative capacity are not compensable unless it is shown that the employing establishment erred or acted abusively in its administrative capacity.³ As appellant has not submitted any independent corroborating evidence that these administrative actions were in fact in error or abusive, these alleged factors are not compensable factors of employment pursuant to the Act.

An emotional condition arising from appellant's performance of day-to-day or specially assigned duties is compensable pursuant to the Act.⁴ Thus, if an employee develops an emotional condition while trying to meet the requirements of a position, such emotional condition is generally compensable. In the present case, appellant has also essentially alleged that with implementation of the new computer system and with the requirement that she screen all computer-related telephone calls, she was overwhelmed and overworked by her work duties. Appellant has alleged that she was required to perform her regular duties on the old computer system and work with the new computer system, which was not fully functional. Appellant has alleged that as the lead computer operator she was required to monitor telephone calls regarding the new computer system, answer questions and distribute the calls to the proper specialists if she was unable to answer the questions herself. After a new computer specialist was hired, appellant was required to answer her telephone calls, up to 32 calls per day. Appellant has alleged that although she received some training on the new system, she was given "unreasonable" demands by her supervisor to find "large" and "good and bad" files and that she had not been trained to perform such tasks and that she could not perform these tasks. Appellant alleged that she had to study manuals at home because she did not have the uninterrupted time necessary at work to learn the new materials. The Board has held that overwork may be a compensable factor of employment.⁵ A claimant cannot meet her burden of proof by merely alleging overwork, rather the evidence of record must corroborate such claim. If the employee did not have ample time to complete her duties, or she was unable to complete the assigned

¹ *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

² *Gregory N. Waite*, 46 ECAB 662 (1995).

³ *Id.*

⁴ *Clara T. Norga*, 46 ECAB 473 (1995).

⁵ *Sandra F. Powell*, 45 ECAB 877 (1994).

duties due to complexity or due to lack of assistance, such allegation could be compensable.⁶ As appellant has described, her work load and work requirements greatly increased with introduction of the new computer system. The employing establishment has not denied that appellant's job duties increased with the new computer system. The Office has not, however, evaluated appellant's claim to determine whether appellant was in fact overworked.

Appellant has also submitted a report dated January 29, 1996, from Dr. Guy J. Renfro, a licensed clinical psychologist, who is generally supportive of appellant's claim that appellant developed an adjustment disorder with mixed emotional feature and major depression as the result of specially-assigned work duties and the failure of appellant's supervisor to take reasonable actions in the administration of personnel matters. This case shall, therefore, be remanded to the Office. Upon remand, the Office shall determine if appellant was overworked. If the Office finds that the evidence corroborates overwork, the Office shall prepare a statement of accepted facts and shall request that Dr. Renfro address whether the accepted factors of employment caused or aggravated appellant's emotional condition. After such further development as necessary, the Office shall issue a *de novo* decision.

The decision of the Office dated June 25, 1996 is hereby set aside and this case is remanded to the Office of Workers' Compensation Programs for further proceedings consistent with this opinion.

Dated, Washington, D.C.
July 28, 1998

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ *Id.*