

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROL A. HALL and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, Wash.

*Docket No. 96-1420; Submitted on the Record;
Issued March 12, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

The Board has carefully reviewed the case record and finds that appellant has failed to meet her burden of proof in establishing that her emotional condition resulted from employment factors.

Under the Federal Employees' Compensation Act,¹ 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. To establish 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 disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.²

Workers' compensation law does not cover each and every injury or illness that is somehow related to employment.³ There are distinctions regarding the type of work situation giving rise to an emotional condition which will be covered under the Act.

The actions of an employee's supervisor which the employee characterizes as harassment may constitute a compensable factor, and if the record demonstrates that the employing establishment erred or acted abusively or unreasonably in the administration of a personnel

¹ 5 U.S.C. §§ 8101-8193.

² *Vaile F. Walders*, 46 ECAB 822, 825 (1995).

³ *Lillian Cutler*, 28 ECAB 125, 129 (1976).

matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁴ However, a claimant must support her allegations of harassment or erroneous actions with probative and reliable evidence; personal perceptions alone are insufficient to establish an employment-related emotional condition.⁵

The initial question is whether appellant has alleged compensable employment factors as contributing to her condition.⁶ Thus, part of appellant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents which appellant believes caused or adversely affected the condition for which she claims compensation.⁷ If appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.⁸

In this case, appellant, then a 49-year-old administrative technician, filed a notice of occupational disease on November 27, 1995, claiming that she was "terrified" to return to work or call in sick "because of the tension," and that she had constant stress on the job, which caused lack of sleep, headaches, and stomach problems.

Appellant submitted a statement in support of her claim, detailing her medical treatment and relating that she was denied sick leave and was issued a "letter of requirement" regarding her use of sick and annual leave and her leave balance. Appellant filed a grievance over the warning letter.

On December 18, 1995 the Office of Workers' Compensation Programs informed appellant that the documents she had submitted were insufficient for the Office to determine whether she was eligible for benefits. The Office stated that receiving a letter of warning was not an employment factor unless the employing establishment erred in issuing the letter. The Office added that appellant should provide copies of all grievance documents.

On April 1, 1996 the Office denied the claim on the grounds that appellant had not established that her emotional condition arose out of and in the course of her duties as a federal employee. The Office noted that appellant had not proved that the employing establishment erred in issuing the letter regarding her leave usage.

The Board finds that the documents submitted by appellant do not support her assertion that her stress and headaches resulted from work factors.

The Board has held that an employee's emotional reaction to an administrative or personnel matter is self-generated and is not covered under the Act unless the evidence

⁴ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

⁵ *Ruthie M. Evans*, 41 ECAB 416, 425 (1990).

⁶ *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

⁷ *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

⁸ *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

establishes that the employing establishment committed error or abuse in taking the action.⁹ Here, appellant has offered no documentation showing that the employing establishment erred in disciplining her for excessive leave usage. Therefore, she has failed to establish that her reaction to the letter of warning occurred in the performance of duty.¹⁰

Further, appellant provided no evidence showing that her stress arose out of any other work incidents, that is, she has not shown that her emotional condition resulted from her day-to-day work, a special assignment, a requirement imposed by the employing establishment, or the nature of the work.¹¹ To the contrary, appellant stated that despite her leave usage, she was able to complete all her assigned work and even help others.

Finally, appellant complained about the varying temperatures at her workplace, but provided no evidence to support this contention.¹² Therefore, the Board finds that appellant has failed to meet her burden of proof in establishing that her emotional condition arose of the performance of duty. Inasmuch as appellant has failed to establish that work factors caused her emotional condition, the Board need not consider the medical evidence.¹³

⁹ *Sharon J. McIntosh*, 47 ECAB ____ (Docket No. 94-1777, issued August 28, 1996).

¹⁰ *See Diane C. Bernard*, 45 ECAB 223, 228 (1993) (finding that the mere filing of a grievance was insufficient to establish that the employing establishment acted erroneously in disciplining appellant); *cf. Abe E. Scott*, 45 ECAB 164, 173 (1993) (remanding the claim for medical analysis because appellant's grievance disputing that he had lied to his foreman was sustained, thus substantiating a compensable factor of employment).

¹¹ *See Merriett J. Kauffman*, 45 ECAB 696, 703 (1994) (finding that appellant failed to allege or establish that specific work tasks or requirements assigned to him gave rise to his emotional condition).

¹² *See Joe E. Hendricks*, 43 ECAB 850, 857 (1992) (finding that appellant's allegations regarding the causes of his stress did not represent compensable work factors).

¹³ *See Dinna M. Ramirez*, 48 ECAB ____ (Docket No. 94-2062, issued January 17, 1997) (finding that the Board need not consider psychiatric evidence because appellant failed to establish that the employing establishment acted abusively in denying her request for official time).

The April 1, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
March 12, 1998

George E. Rivers
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member