

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALICIA A. MANALO and DEPARTMENT OF THE NAVY,
NAVAL AIR STATION, CATHOLIC BASE CHAPEL, Jacksonville, Fla.

*Docket No. 96-1305; Submitted on the Record;
Issued May 13, 1998*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she developed an emotional condition due to factors of her federal employment.

The Board has duly reviewed the record on appeal and finds that appellant failed to meet her burden of proof in establishing that she developed an emotional condition due to factors of her federal employment.

Appellant filed a claim on August 22, 1995 alleging that she developed chest pain and a nervous breakdown. The Office of Workers' Compensation Programs denied appellant's claim on November 1, 1995 finding that she failed to establish a compensable factor of employment. Appellant requested reconsideration on January 22, 1996 and the Office denied modification of its prior decision on February 5, 1996.

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 concept of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment to hold a particular position.¹

Appellant attributed her emotional condition to leave denials,² poor performance appraisals,³ and the refusal of her supervisors to discuss their actions.

¹ *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

² *Elizabeth Pinero*, 46 ECAB 123, 130 (1994).

The above-mentioned allegations relate to administrative or personnel matters. As a general rule, an employee's emotional reaction to an administrative or personnel matter is not covered under the Federal Employees' Compensation Act. But error or abuse by the employing establishment in what would otherwise be an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in the administration of a personnel matter, may afford coverage. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.⁴ In this case, appellant has submitted no evidence that the employing establishment acted unreasonably and has failed to establish error or abuse in an administrative or personnel matter.

Appellant stated that she was not allowed to move her office furniture or close the blinds, that a supervisor took her office furniture, that she was not allowed to lock her desk and that her supervisors moved her office away from them. These matters relate to appellant's frustration in not being permitted to work in a particular environment or to hold a particular position and do not come within the coverage of the Act.⁵

Appellant filed an Equal Employment Opportunity (EEO) complaint and alleged that her supervisors harassed and discriminated against her by calling her a liar, stating she was insubordinate, stating that they did not trust her and by stating that appellant could not speak English. She alleged that she was not allowed to read instructions, not allowed to reason or express feelings, not allowed to talk and that her supervisors were hostile toward minorities. Appellant alleged that her supervisors discouraged grievances, that they rifled through her desk and that following her return to work, in retaliation for filing her EEO complaint, she was not allowed to communicate with her prior work section. For harassment, discrimination or retaliation to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did, in fact, occur. Mere perceptions of harassment or discrimination are not compensable under the Act. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.⁶

Appellant's supervisor denied harassing her. Appellant submitted statements from coworkers and former supervisors. However, these statements were general in nature and did not refer to any specific incidents that would substantiate appellant's allegations of harassment.⁷ Furthermore, the EEO counselor failed to substantiate appellant's allegations of discrimination. Therefore, appellant has failed to establish that she was harassed or discriminated against by her supervisors.

³ *Sammy N. Cash*, 46 ECAB 419, 424 (1995).

⁴ *Martha L. Watson*, 46 ECAB 407 (1995).

⁵ *Anne L. Livermore*, 46 ECAB 425, 435 (1995).

⁶ *Alice M. Washington*, 46 ECAB 382 (1994).

⁷ *Jose L. Gonzalez-Garced*, 46 ECAB 559, 564-65 (1995).

Appellant further alleged that her supervisors planned to fire her. The Board has held that the fear of losing one's job or job insecurity is not sufficient to constitute a personal injury in the performance of duty.⁸

As appellant has failed to substantiate a compensable factor of employment, the Office properly denied her claim without addressing the medical evidence of record.⁹

The decisions of the Office of Workers' Compensation Programs dated February 5, 1996 and November 1, 1995 are hereby affirmed.

Dated, Washington, D.C.
May 13, 1998

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁸ *Pervis Nettles*, 44 ECAB 623, 628 (1993).

⁹ *Sharon R. Bowman*, 45 ECAB 187, 194 (1993).