

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of FRANCES L. CARROLL and U.S. POSTAL SERVICE,  
POST OFFICE, Washington, D.C.

*Docket No. 97-880; Submitted on the Record;  
Issued November 20, 1998*

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DECISION and ORDER

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

The issue is whether appellant has met her burden of proof in establishing that she sustained an emotional condition while in the performance of duty on October 5, 1995

On October 5, 1995 appellant, then a 48-year-old laborer custodian, filed a notice of traumatic injury and claim, alleging that on that date she sustained mental stress while in the performance of duty. Appellant stopped work. By decision dated January 29, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish that an injury was sustained as alleged. In a decision dated November 15, 1996 and finalized November 18, 1996, an Office hearing representative affirmed the Office's January 29, 1996 decision.

The Board has carefully reviewed the entire case record on appeal and finds that appellant has not met her burden of proof in establishing that she sustained an emotional condition while in the performance of duty.

The initial question presented in an emotional condition claim is whether appellant has alleged and substantiated compensable factors of employment contributing to her condition. Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. There are distinctions as to the type of situation giving rise to an emotional condition, which will be covered under the Federal Employees' Compensation Act. Where disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within the coverage of the Act. On the other hand, the disability is not covered where it results from factors such as an employees 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. Disabling conditions resulting from an employee's feeling of job insecurity or desire for a different job do not constitute personal injury sustained while in the performance of duty within the meaning of

the Act.<sup>1</sup> When the evidence demonstrates feelings of job insecurity and nothing more, coverage will not be afforded because such feelings are not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of the Act.<sup>2</sup> In these cases, the feelings are considered to be self-generated by the employee as they arise in situations not related to his assigned duties. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse cannot be considered self-generated by the employee but caused by the employing establishment.<sup>3</sup>

In the present case, appellant alleged that she sustained mental stress due to harassment by her supervisors in the form of accusations of “wrongdoing.” On her claim, appellant’s supervisor, Kenneth P. Moore, indicated that appellant’s injury was caused by misconduct when she left her assignment without permission. In a supplemental statement, Mr. Moore reported that appellant had left her assigned area on September 16, 26 and 27, 1995 when she was absent from her area without permission and was taken off the clock. He indicated that on September 22, 1995, appellant attended a meeting, in which he asked if she was having any problems due to her regular absence without leave (AWOL) status. The alleged incident is an administrative or personnel function, which is not compensable under the Act unless appellant established that the employer erred or acted abusively in carrying out the function. Appellant has not submitted any evidence to substantiate that the employing establishment acted improperly or acted abusively in either placing her in AWOL status or meeting with her in this regard. There is also no indication that she grieved the employing establishment’s action or filed any type of complaint in relation to the alleged incident. Therefore, this incident is not compensable under the Act. To the degree to which appellant’s allegation concerns her supervisor’s method of carrying out his duty with respect to her AWOL status, the Board notes that this is also not a compensable factor under the Act. Appellant’s complaints concerning the manner in which her supervisor performed his duties as a supervisor or the manner, in which he exercised his supervisory discretion fall, as a rule, outside of compensable factors of employment.<sup>4</sup> Her complaints are analogous to frustration over not being allowed to work in a particular job environment and are, therefore, not compensable. Appellant has not met her burden of proof in establishing that she sustained an emotional condition within the performance of duty.

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>2</sup> *Artice Dotson*, 41 ECAB 754 (1990); *Allen C. Godfrey*, 37 ECAB 334 (1986); *Buck Green*, 37 ECAB 374 (1985).

<sup>3</sup> *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff’d on recon.*, 42 ECAB 566 (1991).

<sup>4</sup> *Donald E. Ewals*, 45 ECAB 111 (1993); *see also David W. Shirey*, 42 ECAB 783 (1991).

The decisions of the Office of Workers' Compensation Programs dated November 18 and January 29, 1996 are hereby affirmed.

Dated, Washington, D.C.  
November 20, 1998

George E. Rivers  
Member

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member