

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ISIDORA G. CERALDE and U.S. POSTAL SERVICE,  
POST OFFICE, San Francisco, Calif.

*Docket No. 97-137; Submitted on the Record;  
Issued September 4, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

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 appellant has not met her burden of proof in this case.

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 her employment duties or has fear and anxiety regarding her ability to carry out her duties, and the medical evidence establishes that the disability resulted from her 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.<sup>1</sup>

In the present case, the Office of Workers' Compensation Programs by decision dated April 19, 1996 has accepted that appellant, a postal distribution clerk, has alleged several compensable factors of employment, however, that the evidence of record did not establish that appellant's emotional condition was causally related to these accepted factors of her federal employment. The Office denied merit review on June 12, 1996.

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<sup>1</sup> See *Elizabeth Pinero*, 46 ECAB 123 (1994).

In cases involving emotional conditions, the Board has held that, when working conditions are related as factors in causing a condition or disability, the Office must first as part of its adjudicatory function make findings of fact regarding which working conditions are deemed compensable factors of employment and which working conditions are not deemed factors of employment. Only if appellant has alleged a compensable factor of employment will the Office further review the medical evidence and evaluate the claim.<sup>2</sup>

The factors of employment alleged by appellant which the Office has determined constitute compensable factors of employment are that a dispute existed for a period of three years (1992 to 1995) between appellant and coworkers regarding responsibility for mail dispatch delays; that coworkers disturbed appellant in her work area since 1992 by talking amongst themselves and giggling; that on September 22, 1992 before finishing the letters she had to work, appellant volunteered to help with small parcels, appellant bundled her remaining letters and threw them into a coemployees' flat trays and was told by the coemployee not to do so. The Office also determined that several allegations made by appellant did not constitute compensable factors of employment. The Office properly found that these allegations, which concerned duty assignments appellant objected to or denials of reassignment, were noncompensable administrative functions. The Board has held that the assignment of work duties is generally related to the employment, however, it is an administrative function of the employer and not a duty of the employee.<sup>3</sup> The Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board examines whether the employing establishment acted reasonably.<sup>4</sup> As appellant did not submit the necessary independent corroborating evidence necessary to establish that the employing establishment acted unreasonably in her duty assignments, the Office properly determined that these were not compensable factors of employment.

As appellant did allege some compensable factors of employment, the Office properly proceeded to determine whether the medical evidence of record substantiated that appellant's emotional condition was causally related to these accepted factors of employment. In support of her claim appellant submitted several form reports from her treating physician Dr. Patria Abaya and several reports from a licensed social worker.<sup>5</sup> Dr. Abaya diagnosed appellant as having anxiety and colitis due to stress at work. Dr. Abaya did not relate any specific history of stress at work in her reports and did not indicate an awareness of the factors of employment alleged by appellant and accepted by the Office. Dr. Abaya's reports are not sufficient to establish a causal relationship between appellant's diagnosed stress conditions and her factors of employment.

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<sup>2</sup> See *Gregory J. Meisenberg*, 44 ECAB 527 (1993).

<sup>3</sup> *Elizabeth W. Esnil*, 46 ECAB 606 (1995).

<sup>4</sup> See *Richard J. Dube*, 42 ECAB 916 (1991).

<sup>5</sup> A report from a social worker cannot be considered medical evidence as a social worker is not considered to be a physician under the Act. The reports from the Kaiser clinic were all signed by a social worker; see 5 U.S.C. § 8101(2). *Debbie J. Hobbs*, 43 ECAB 135 (1992).

The evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>6</sup> As Dr. Abaya did not provide a rationalized medical opinion causally relating appellant's diagnosed stress disorders to the accepted factors of employment, her reports are of little probative medical value in this case.

Finally, the Office referred appellant to Dr. Roy B. Gryler, a Board-certified psychiatrist, for a second opinion evaluation. In a report dated January 4, 1996, Dr. Gryler explained that he had used the Office's statement of accepted facts as a reference but had also elicited a detailed social and employment history from appellant. Dr. Gryler diagnosed personality disorder with paranoia. Dr. Gryler noted appellant's history of litigiousness and her general theories of workplace conspiracy which involved close to a dozen other individuals, both coworkers and supervisors. Dr. Gryler stated that while appellant viewed herself as a "victim" there was little basis in reality for most of her complaints. Dr. Gryler opined that appellant's paranoid, narcissistic and histrionic personality features would begin to manifest themselves in any other employing establishment. He noted that appellant's tearfulness and depression were appellant's dramatic way of expressing anger at a situation which she herself had caused. Dr. Gryler concluded that appellant did not have any emotional or psychiatric condition which was due to, aggravated, precipitated, accelerated, or proximately caused by the specific incidents which were considered to be factors of employment.

As Dr. Gryler's report was based upon a proper factual background and explained with medical rationale how her condition was caused by a personality disorder rather than accepted factors of employment, the Office properly found that Dr. Gryler's report constituted the weight of the medical opinion evidence.

Appellant did not meet her burden of proof to establish that her emotional condition was causally related to factors of her federal employment.

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<sup>6</sup> Gary L. Fowler, 45 ECAB 365 (1994).

The decisions of the Office of Workers' Compensation Programs dated June 12 and April 19, 1996 are hereby affirmed.

Dated, Washington, D.C.  
September 4, 1998

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member