

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENYA S. SARTEN and DEPARTMENT OF DEFENSE,
DEPENDENT SCHOOLS, Arlington, Va.

*Docket No. 97-1425; Submitted on the Record;
Issued April 9, 1999*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

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 case 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 alleging that she developed an emotional condition due to factors of her federal employment on February 6, 1996. The Office of Workers' Compensation Programs denied appellant's claim by decision dated January 31, 1997, finding that the medical evidence failed to establish a causal relationship between appellant's diagnosed condition and her accepted factors of employment.¹

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 or to hold a particular position.²

¹ Following the Office's January 3, 1997 decision, appellant submitted additional new evidence. As the Office did not review this evidence in reaching a final decision, the Board may not consider it for the first time on appeal. 20 C.F.R. § 501.2(c).

² *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

In this case, appellant, a second grade teacher, attributed her emotional condition to the institution of a mandatory home reading program with which she did not agree, a requirement that she enter test scores by hand rather than utilize a computer printout as she preferred, the discipline policy of her supervisor, policies regarding parental concerns and interaction and the denial of her requests for transfer. 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.³ Appellant has submitted no evidence that the employing establishment acted unreasonably in these administrative matters.

Appellant indicated that her condition was due to the way her supervisor performed her duties. Reactions to administrative actions of a supervisor are not compensable, absent error or abuse, and, as there is no evidence the supervisor acted unreasonably in performing her duties, appellant did not establish a compensable factor of employment.⁴ Appellant made several other allegations which were not supported by factual evidence and, therefore, did not constitute compensable factors of employment.

Appellant also attributed her condition to an additional 10 minutes added to the instructional day, that the teachers' lunch decreased by 10 minutes on inclement days, and that when there is a shortage of substitute teachers, the classroom teachers have an additional 40 minutes of instructional time. Appellant attributed her emotional condition to increased class size. Appellant's supervisor, Dee Ann Edwards, stated that the intent of the employing establishment was to keep enrollment to below 23 students per teacher, but that this was not always possible. Ms. Edwards indicated that the remainder of the allegations were within her authority. The Board finds that these events occurred as alleged and that the events related to appellant's regular or specially assigned duties.

To establish appellant's occupational disease claim that she has sustained an emotional condition in the performance of duty appellant must submit the following: (1) medical evidence establishing that she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.⁵ 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,

³ *Martha L. Watson*, 46 ECAB 407 (1995).

⁴ *Michael L. Malone*, 46 ECAB 957, 960-61 (1995).

⁵ *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

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.⁶

Appellant submitted several medical reports in support of her claim. In a report dated April 22, 1996, Dr. Stephen A. Young, a Board-certified psychiatrist, reviewed a statement of accepted facts from the Office and diagnosed dysthymia with acute depressive exacerbation and anxiety disorder. He discussed the contribution of appellant's employment to her current condition and stated, "While one could not say with any certainty that her employment caused these symptoms, certainly it is reasonable to state that she was very unhappy with her work situation for quite a long time and that those circumstances contributed significantly to her present illness." This report is not sufficient to meet appellant's burden of proof as Dr. Young did not address the specific accepted employment factors and did not provide a clear opinion on the causal relationship between appellant's diagnosed condition and those factors.

Dr. Eugene R. Valentine, a Board-certified psychiatrist, completed a form report on September 30, 1996 and diagnosed major depression. He indicated with a checkmark "yes" that appellant's condition was due to her employment and stated, "Chronically unhappy with work situation and tried to obtain transfer without success." This report is not sufficient to meet appellant's burden of proof as her failure to obtain a transfer is not an accepted factor of employment.

On January 7, 1997 Dr. Valentine reviewed appellant's allegations and noted that she felt her stress was increased by an unnecessarily large class and increases in the length of the duty day. In his opinion regarding the causes of appellant's emotional condition, Dr. Valentine stated, "The onset of a major depression appeared to occur in September of 1995 aggravated by the work environment -- conflict with her Principal, feeling no support from her Principal, failure of her Principal to respond to requests to problem solve an issue, being criticized by her Principal openly in front of others, all aggravated her underlying low self-esteem and increasing demands for more work from each teacher, with lack of adequate preparation time was also a significant stressor." He noted appellant's desire for consistent discipline and for procedures for discipline and that the lack of procedures caused her stress.

This report is not sufficient to meet appellant's burden of proof as Dr. Valentine did not clearly attribute appellant's condition to the accepted factors of employment. Furthermore, he failed to provide medical rationale in support of his conclusion that the mentioned factor of employment, more work, contributed to appellant's emotional condition.

As appellant failed to submit the necessary rationalized medical opinion evidence to establish a causal relationship between her diagnosed condition and accepted factors of her federal employment she failed to meet her burden of proof and the Office properly denied her claim.

⁶ *Id.*

The decision of the Office of Workers' Compensation Programs dated January 31, 1997 is hereby affirmed.

Dated, Washington, D.C.
April 9, 1999

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member