

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of NANCY E. THOMASON and U.S. POSTAL SERVICE,  
POST OFFICE, Dowington, Pa.

*Docket No. 97-1993; Submitted on the Record;  
Issued April 12, 1999*

---

DECISION and ORDER

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

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 on December 13, 1995 alleging that she sustained an emotional condition due to actions of her coworkers. The Office of Workers' Compensation Programs denied appellant's claim on July 1, 1996 finding that she had failed to submit the necessary medical evidence to establish her claim. Appellant requested an oral hearing and by decision dated February 24, 1997, the hearing representative denied appellant's claim.

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.<sup>1</sup>

In this case, the Office properly found that appellant had submitted sufficient evidence to establish that she engaged in a discussion with coworkers regarding overtime which ended in a shouting match; that in the past a coworker inadvertently struck her in the back with a parcel; that a coworker verbally harassed her in 1992; and that she was left to work the window alone

---

<sup>1</sup> *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

and a customer became upset as appellant was the only clerk. The Office also properly found that appellant had not established the remainder of the employment incidents alleged.

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.<sup>2</sup> 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>3</sup>

In support of her claim, appellant submitted a report dated December 13, 1995 from Dr. Elizabeth J. Carroll, an osteopath, noting that appellant had been harassed at work. This report does not list the specific employment factors identified by appellant and accepted by the Office and is not sufficient to meet appellant's burden of proof.

Appellant also submitted several reports from Dr. Andrew M. Nemeth, a Board-certified psychiatrist. In a December 25, 1995 report, Dr. Nemeth, diagnosed anxiety disorder caused by stress and harassment at work. On December 27, 1995 and February 5, 1996 Dr. Nemeth diagnosed acute stress disorder caused by appellant's work environment. On February 25, 1996 he completed an attending physician's report and indicated with a checkmark "yes" that appellant's condition was due to her employment. Dr. Nemeth stated that he attributed appellant's condition to verbal abuse and physical threats. He also submitted a series of form reports diagnosing anxiety disorder and indicating with a checkmark "yes" that appellant's condition was due to her employment injury. In a report dated May 31, 1996, Dr. Nemeth diagnosed acute stress disorder apparently caused by harassment at work.

These reports provide a diagnosis of appellant's condition and an opinion that this condition is causally related to appellant's employment. However, Dr. Nemeth did not provide a clear statement of the accepted employment factors and did not offer medical rationale in support of his opinion that the accepted factors caused or contributed to appellant's condition.

Dr. Nemeth completed a report on August 5, 1996 and diagnosed acute stress disorder and major depression. He opined that appellant's condition was the result of acute and chronic stress at work. Dr. Nemeth specifically stated, "Acute stress such as harassment by coworkers and supervisor over overtime undoubtedly ... caused anger, irritability, anxiety and depression to the point that she could not carry out her job.... Reported physical assault (pushing, shoving)

---

<sup>2</sup> *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

<sup>3</sup> *Id.*

and sexual harassment were also important factors in causing anxiety, depression and worsening her asthma and ulcers.”

This report includes incidents which the Board has not accepted as employment factors including pushing, shoving, sexual harassment and harassment by her supervisor. As Dr. Nemeth did not specifically address the accepted employment factors and provide medical rationale in support of his opinion on causal relationship, this report is not sufficient to meet appellant’s burden of proof.

On February 3, 1997 Dr. Nemeth noted that on December 13, 1995 appellant had a dispute with a coworker. He stated, “[A coworker] shouted at her and ‘called her out to fight.’ At this threat of physical harm [appellant] became very upset and feared for her safety.” Dr. Nemeth stated that appellant’s fears, depression, anxiety and inability to work were the direct result of the threats made by her coworker and also the less than supportive stance by her supervisor.

In this report, Dr. Nemeth attributed appellant’s condition to the accepted employment incident of December 13, 1995 in which appellant and a coworker had a verbal altercation. However, Dr. Nemeth did not offer any reasoning explaining why this event would result in appellant’s diagnosed condition. Without supportive medical rationale, his report is insufficient to establish appellant’s claim for an emotional condition.

In reports dated May 2, 1996 and February 4, 1997, Kathryn A. Hynes, a psychologist, noted that appellant experienced harassment and a lack of safety at work. She also stated that appellant’s entry into therapy was precipitated by a verbal altercation with a coworker which escalated into a threat on appellant’s life. Dr. Hynes’ reports indicate that appellant experienced a death threat and lack of safety. These conditions have not been accepted as factual and do not constitute accepted factors of employment. Therefore, the medical evidence opining that appellant’s condition is due to these factors is not sufficient to meet appellant’s burden of proof.

As appellant has not submitted a medical report noting with specificity the accepted employment factors, diagnosing a condition attributable to these factors and explaining how and why the physician believed that the factors caused the condition, she has failed to meet her burden of proof and the Office properly denied her claim.

The decisions of the Office of Workers' Compensation Programs dated February 24, 1997 and July 1, 1996 are hereby affirmed.

Dated, Washington, D.C.  
April 12, 1999

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member