

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of AIDA L. CHARRIEZ and U.S. POSTAL SERVICE,
POST OFFICE, San Juan, P.R.

*Docket No. 97-1510; Submitted on the Record;
Issued February 3, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

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

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

Appellant filed a claim for traumatic injury on September 13, 1996 alleging that she developed an emotional condition due to actions of her supervisor on that date. The Office of Workers' Compensation Programs denied appellant's claim by decision dated November 5, 1996, finding that she had not submitted the necessary medical evidence to establish an emotional condition. Appellant requested reconsideration and submitted additional factual and medical evidence. By decision dated December 26, 1996, the Office denied modification of its November 5, 1996 decision, finding that appellant had not met her burden of proof in establishing an emotional condition due to her accepted employment incidents.

In this case, appellant attributed her emotional condition to a confrontation with her supervisor on September 13, 1996. She stated that her supervisor informed her that she was to work the window. Appellant refused to do so due to the way that her supervisor, Jose Mario Lopez, had angrily instructed her with no consideration for her feelings or seniority. She stated that she followed Mr. Lopez into his office and that he told her she was inept and irresponsible. Appellant then reported to the window where she became more and more upset. She stated that Mr. Lopez did not offer to help her to close the window, did not offer to take her to the doctor nor acknowledge her condition at all.

In support of her claim, appellant submitted a statement from Efrain Soto, a coworker. Mr. Soto stated that Mr. Lopez instructed appellant to work the window, that appellant refused, that appellant reported to the window a few minutes later, left to talk and argue with Mr. Lopez

and was crying at her coffee break. Mr. Soto helped appellant to close her window and his children aided her in getting home.

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 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.² Perceptions alone are not sufficient to establish entitlement to compensation. To discharge her burden of proof, a claimant must establish a factual basis for her claim by supporting her allegations with probative and reliable evidence.³

Although appellant asserted that her supervisor acted improperly in instructing her to work the window and that he made derogatory comments, the record is devoid of evidence showing error or abuse by the supervisor. The supervisor asked appellant to perform duties within appellant's position description as confirmed by appellant's witness. Furthermore, there are no statements by witnesses regarding the confrontation between appellant and her supervisor.

Appellant also alleged that her supervisor should have escorted her to the doctor or insured that she was aided to the doctor as she was upset. These allegations do not relate to appellant's regularly or specially assigned duties. Appellant took leave and at that time was no longer in the performance of duty.

As appellant has not established a compensable factor of employment, she has failed to meet her burden of proof and the Office properly denied her claim.

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

² *Martha L. Watson*, 46 ECAB 407 (1995).

³ *Sharon J. McIntosh*, 47 ECAB 754 (1996).

The decisions of the Office of Workers' Compensation Programs dated December 26 and November 5, 1996 are hereby affirmed.

Dated, Washington, D.C.
February 3, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member