

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SYLVIA M. SAVOY and U.S. POSTAL SERVICE,
POST OFFICE, Baton Rouge, La.

*Docket No. 97-1516; Submitted on the Record;
Issued February 4, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
DAVID S. GERSON

The issue is whether appellant has established that she sustained agitation and its physiologic consequence of elevated blood pressure, depression and aggravation of her preexisting post-traumatic stress disorder in the performance of duty, causally related to compensable factors of her federal employment.

On October 9, 1996 appellant, then a 40-year-old part-time flexible letter carrier filed a claim alleging that on that date she became upset by an incident at the employing establishment. She alleged that becoming upset caused her blood pressure to elevate and caused her to become very depressed. Witness statements confirmed that on October 9, 1996 appellant did not get to use the vehicle she wanted, but instead was told to use another and to refuel it.

By letter dated January 10, 1997, the Office of Workers' Compensation Programs requested that appellant provide further information, including a description in detail of the incident that she believed caused her condition.

By response dated January 17, 1997, appellant identified the following incidents: (1) contract workers, who "should not be working more hours than part-time flexible carriers" were working more hours than she was; (2) she did not have the opportunity to learn more than 4 routes when others learned 10 routes; (3) she did not get the route she wanted because it was given to another carrier with less seniority; and (4) on October 9, 1996 she did not get the vehicle she wanted, which she had filled with gasoline the day before, but instead got another vehicle without a full tank and was told to refuel it. Appellant alleged that this last incident caused her preexisting post-traumatic stress disorder to be aggravated and the stress caused her preexisting hypertension to become worse.

By decision dated March 6, 1997, the Office rejected appellant's claim finding that she failed to establish that she sustained an injury in the performance of duty.

The Board finds that appellant has failed to establish that she sustained agitation and its physiologic consequence of elevated blood pressure, depression and aggravation of her

preexisting post-traumatic stress disorder in the performance of duty, causally related to compensable factors of her federal employment.

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

Workers' compensation law is not applicable 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. These injuries occur in the course of employment and have some kind of causal connection with it but are not covered because they do not arise out of the employment. Distinctions exist as to the type of situations giving rise to an emotional condition which will be covered under the Federal Employees' Compensation Act. Where the disability results from an emotional reaction to regular or specially assigned work duties or to a requirement imposed by the employment or if the employee has fear or anxiety regarding his or her ability to carry out his or her duties, and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability comes within the coverage of the Act. On the other hand, the disability is not compensable where it results from such factors as an employee's fear of a reduction-in-force, his or her frustration from not being permitted to work in a particular environment or to hold a particular position, or his or her failure to secure a promotion. Disabling conditions resulting from an employee's feeling of job insecurity or the desire for a different job do not constitute personal injury sustained while in the performance of duty within the meaning of the Act.³ 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.⁴ In these cases, the feelings are considered to be self-generated by the employee as they arise in situations not related to his or her assigned duties.

If the employee's emotional reaction stems from employment matters which are not related to his or her regular or assigned work duties, the disability is not regarded as having

¹ See *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *Id.*

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Artice Dotson*, 41 ECAB 754 (1990); *Buck Green*, 37 ECAB 374 (1985); *Peter Sammarco*, 35 ECAB 631 (1984).

arisen out of and in the course of employment, and does not come within the coverage of the Act.⁵ Noncompensable factors of employment include administrative and personnel actions, which are matters not considered to be “in the performance of duty.”⁶ 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.⁷

When working conditions are alleged as factors in causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship, and which working conditions are not deemed factors of employment and may not be considered.⁸ When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.⁹ When the matter asserted is a compensable factor of employment, and the evidence of record establishes the truth of the matter asserted, then the Office must base its decision on an analysis of the medical evidence of record.¹⁰

All of appellant’s allegations of employment factors that caused or contributed to her condition fall into the category of administrative or personnel actions. In *Thomas D. McEuen*¹¹ the Board held that an employee’s emotional reaction to administrative actions or personnel matters taken by the employing establishment is not covered under the Act as such matters pertain to procedures and requirements of the employer and do not bear a direct relation to the work required of the employee. The Board noted, however, that coverage under the Act would attach if the factual circumstances surrounding the administrative or personnel action established error or abuse by the employing establishment superiors in dealing with the claimant.¹² Absent evidence of such error or abuse, the resulting emotional condition must be considered self-generated and not employment generated. The incidents and allegations made by appellant which fall into this category of administrative or personnel actions include: appellant not getting the hours she wanted; appellant not getting the route she wanted, appellant not getting the

⁵ *Id.*

⁶ See *Joseph C. Dedonato*, 39 ECAB 1260 (1988); *Ralph O. Webster*, 38 ECAB 521 (1987).

⁷ *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff’d on recon.*, 42 ECAB 566 (1991).

⁸ See *Barbara Bush*, 38 ECAB 710 (1987).

⁹ *Ruthie M. Evans*, 41 ECAB 416 (1990).

¹⁰ See *Gregory J. Meisenberg*, 44 ECAB 527 (1993).

¹¹ See *supra* note 7.

¹² See *Richard J. Dube*, 42 ECAB 916 (1991).

vehicle she wanted and appellant not getting the opportunity to learn more than four routes.¹³ Appellant has presented no evidence of administrative supervisory error or abuse in the performance of these actions, and therefore they are not compensable now under the Act.

Further, regarding appellant's work hours and routes and vehicles assigned, frustration from not being permitted to work in a particular environment, for particular hours or on particular routes or to hold a particular position or drive a particular vehicle is not compensable under the Act as noted above.¹⁴

As appellant has failed to implicate any compensable factors of her employment in causing her agitation, depression or aggravation of preexisting post-traumatic stress syndrome, she has failed to demonstrate the first requirement in establishing her claim and therefore the medical evidence submitted need not be considered.

Accordingly, the decision of the Office of Workers' Compensation Programs dated March 6, 1997 is hereby affirmed.

Dated, Washington, D.C.
February 4, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

David S. Gerson
Member

¹³ See *Jose L. Gonzalez-Garced*, 46 ECAB 559 (1995) (matters involving training of an employee is an administrative function).

¹⁴ See *supra* note 3.