

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DENEASE E. CHRISTENSEN and DEPARTMENT OF THE NAVY,  
CINC PACIFIC FLEET, Silverdale, Wash.

*Docket No. 97-1522; Submitted on the Record;  
Issued February 10, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, 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 frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>1</sup>

In the present case, appellant, a dispatcher, filed a claim on September 30, 1996 alleging that she had sustained an emotional condition because of a very tense environment at work, harassment past and present and having to work with a coemployee who had obtained a restraining order against her. In a mishap report, appellant stated that she was subjected to "ongoing subtle harassment due to settlement of [an] EEOC [Equal Employment Opportunity Commission] case which included return to the same work environment with coworkers who had

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

brought false charges against me and are unable to accept any responsibility for past actions.” Appellant also submitted a number of medical reports to the record. A report from Dr. Sharon Carter dated August 26, 1996 diagnosed major depression, recurrent and panic disorder. Dr. Carter noted that appellant had filed complaints against coworkers whom appellant believed were gossiping about her relationships with male coworkers. Dr. Carter also noted that a restraining order had been filed against appellant on August 1, 1996. On October 18, 1996 the Office of Workers’ Compensation Programs requested that appellant clarify and describe in detail the employment-related factors or incidents she believed contributed to her illness. The Office did not receive the requested clarification from appellant.

By decision dated December 13, 1996, the Office denied appellant’s claim. The Office denied merit review of the claim on February 24, 1997.

To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting her allegations with probative and reliable evidence.<sup>2</sup> In the present case, appellant has made general allegations but has not submitted the detailed corroborating evidence necessary to factually substantiate her allegations.

Essentially, appellant has alleged that she sustained an emotional condition because she had to work in a very tense environment and because she was harassed by coworkers. Generally, the Board has held that disability is not covered as occurring in the performance of duty where it results from such factors as frustration from not being permitted to work in a particular environment.<sup>3</sup> Similarly, the Board has held that the appellant’s reaction to working with disgruntled fellow employees also pertained to a desire for a different work environment and did not arise out of the performance of her assigned duties.<sup>4</sup> Appellant’s dislike of the work environment therefore is not a compensable factor of employment under the Act.

Regarding appellant’s allegations of harassment, to the extent that disputes and incidents alleged as constituting harassment are established as occurring and arising from the performance of regular or specially assigned duties, these could constitute employment factors.<sup>5</sup> For harassment to give rise to a compensable disability under the Act, there must be some evidence that the acts alleged or implicated by the employee did, in fact, occur.<sup>6</sup> As appellant did not submit any corroborating evidence of harassment, and in fact, did not even describe with names, dates and other particulars the alleged acts of harassment, the Office properly determined that appellant had not met her burden of proof in this regard.

Appellant has not established that a compensable factor of employment caused her emotional condition. The Office therefore properly denied her claim.

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<sup>2</sup> *Mary A. Sisneros*, 46 ECAB 155 (1994).

<sup>3</sup> *Clara T. Norga*, 46 ECAB 473 (1995).

<sup>4</sup> *Peggy R. Lee*, 46 ECAB 527 (1995).

<sup>5</sup> *Gregory N. Waite*, 46 ECAB 662 (1995).

<sup>6</sup> *Helen Casillas*, 46 ECAB 1044 (1995).

The decisions of the Office of Workers' Compensation Programs dated February 24, 1997 and December 13, 1996 are hereby affirmed.

Dated, Washington, D.C.  
February 10, 1999

George E. Rivers  
Member

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member