

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA D. COOK and U.S. POSTAL SERVICE,
POST OFFICE, Largo, FL

*Docket No. 97-2704; Submitted on the Record;
Issued January 20, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether appellant sustained an emotional condition while in the performance of duty.

On June 24, 1996 appellant, a customer service supervisor, filed a claim asserting employment stress, harassment, discrimination, anxiety and depression. In a supporting statement she explained that she had dealt with a very stressful situation involving her postmaster and her current station manager. She was refused or disapproved many change-of-schedule requests; the postmaster and manager demanded medical documentation; the postmaster expected appellant to be regular in attendance notwithstanding her cancer; she had Family Medical Leave Act (FMLA) appointments; she was reprimanded for settling Step I grievances; her medical problems were discussed with other employees; her telephone calls were monitored; and her cancer was referred to as a "so-called illness."

Appellant submitted medical evidence in support of her allegations that her supervisors were harassing her with respect to regular and necessary medical appointments and testing; that appellant was not able to work in her current setting due to the amount of stress; and that this stress was having an affect on appellant both physically and psychologically.

In a decision dated August 21, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence failed to demonstrate that the claimed injury occurred in the performance of duty.

Appellant requested an oral hearing before an Office hearing representative. She submitted additional information to support her claim, including background information, documents involving the postmaster and station manager, discipline documents, absence slips, medical documents, Equal Employment Opportunity (EEO) documents, union documents and letters from postal employees. Appellant also submitted her journal notes from January 13, 1995 through June 13, 1996.

At the hearing, which was held on February 7, 1997, appellant appeared and testified. On March 5, 1997 the manager responded to appellant's testimony by disputing her allegations. She stated, among other things, that she gave appellant schedule changes or time off to attend her doctor appointments, that she accommodated appellant when possible, and that she went out of her way to accommodate appellant in all ways. Appellant's manager stated that at no time did she or the postmaster try to overburden appellant with work so she would fail. She also stated that at no time did she use foul language in front of appellant; rather, she stated, "I shared my disappointment that she did not follow my instructions."

The postmaster submitted statements dated July 24, 1996 and March 5, 1997 rebutting appellant's allegations. She stated, among other things, that appellant abused her change of schedule requests; that appellant requested family medical leave and was observed during work hours either unloading numerous packages from her vehicle, indicating that she had been Christmas shopping or riding on the back of a motorcycle with her husband; and that appellant requested leave for an eye operation but had a tummy tuck and eventually admitted that she had lied. The postmaster explained disciplinary issues and asserted that she never assassinated appellant's character. The postmaster also stated that she never yelled or screamed at appellant or used profane language while speaking to her. She stated that she never followed appellant nor had anyone else follow her. Appellant, the postmaster stated, was always treated professionally and with courtesy and respect.

The record contains statements from other employees at the employing establishment and several supervisors.

Appellant replied on March 17, 1997 that she was very surprised and upset at the numerous lies, misrepresentations and false accusations contained in the postmaster's response. She responded to the postmaster's account of events and also addressed the comments made by the manager. Appellant attested to all of her statements and accused the postmaster and manager of defaming her character.

In a decision dated May 21, 1997, the hearing representative affirmed the denial of appellant's claim. The hearing representative found that the record contained insufficient corroborating evidence to establish that the events perceived by appellant occurred as alleged or that they constituted error or abuse on the part of the employing establishment. The hearing representative noted that there were no EEO findings or other administrative decisions documenting harassment or discrimination or fault on the part of the employer, and that the additional factors alleged by appellant were not compensable factors of employment. Other incidents, the hearing representative found, were not documented as having occurred. The hearing representative found that statements from other employees failed to establish compensable employment factors in appellant's case and noted that appellant's supervisors had denied the charges of harassment or of improper or unreasonable behavior.

The Board finds that the evidence fails to establish that appellant sustained an emotional condition while in the performance of duty.

Workers' compensation law does not cover each and every injury or illness that is somehow related to employment.¹ An employee's emotional reaction to an administrative or personnel matter is generally not covered. Thus, the Board has held that an oral reprimand generally does not constitute a compensable factor of employment,² neither do disciplinary matters consisting of counseling sessions, discussion or letters of warning for conduct;³ investigations;⁴ determinations concerning promotions and the work environment;⁵ discussions about an SF-171;⁶ reassignment and subsequent denial of requests for transfer;⁷ discussion about the employee's relationship with other supervisors;⁸ or the monitoring of work by a supervisor.⁹

Nonetheless, the Board has held that error or abuse by the employing establishment in an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in an administrative or personnel matter, may afford coverage.¹⁰ Perceptions alone, however, 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.¹¹

Appellant attributes her stress, anxiety and depression to the harassment by her postmaster and station manager. However, such actions as disapproving a change-of-schedule request, requiring medical documentation to support a leave request, requiring regular attendance or disciplining an employee fall, as a general matter, outside the scope of coverage of the Federal Employees' Compensation Act. Appellant's emotional reaction to such administrative or personnel matters is generally not compensable. To establish an entitlement to compensation under these circumstances, a claimant must submit probative and reliable evidence showing error or abuse by the employing establishment in the administrative or personnel matters implicated. The record shows that appellant pursued her allegations through the Equal Employment Opportunity Commission (EEOC). She charged that the postmaster and station manager discriminated against her starting in January 1995, that she was subjected to continued stress and harassment over her requests for accommodation or medical leave and to continued character

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

² *Joseph F. McHale*, 45 ECAB 669 (1994).

³ *Barbara J. Nicholson*, 45 ECAB 803 (1994); *Barbara E. Hamm*, 45 ECAB 843 (1994).

⁴ *Sandra F. Powell*, 45 ECAB 877 (1994).

⁵ *Merriett J. Kauffman*, 45 ECAB 696 (1994).

⁶ *Lorna R. Strong*, 45 ECAB 470 (1994).

⁷ *James W. Griffin*, 45 ECAB 774 (1994).

⁸ *Raul Campbell*, 45 ECAB 869 (1994).

⁹ *Daryl R. Davis*, 45 ECAB 907 (1994).

¹⁰ *Margreate Lublin*, 44 ECAB 945 (1993).

¹¹ *Ruthie M. Evans*, 41 ECAB 416 (1990).

assassination, and that she was chastised because of her disability. As the hearing representative correctly noted, the record contains no findings or decision from the EEOC or other such administrative body to support the validity of appellant's charges. In addition to her allegations, statements were submitted from other employees; however, the Board notes that these statements do not pertain to the specifics of appellant's allegations. Rather the statements contain general comments pertaining to the employee's own problems with various supervisors at work. As such, this evidence is not sufficient to establish a factual basis for appellant's allegations. The burden of proof in this case lies with appellant to establish her entitlement to compensation, or more specifically, to establish by the weight of the evidence error or abuse by the employing establishment in the administrative or personnel matters implicated. As the weight of the evidence fails to establish her allegations, the Board finds that she has not met her burden of proof.¹²

The May 21, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
January 20, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member

¹² On appeal appellant argues that the employing establishment violated the FMLA of 1993, the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973. The Board has no jurisdiction to decide matters under these Acts. See 20 C.F.R. § 501.2(c); *Julius Cormier*, 47 ECAB 465 (1996); *William F. Osborne*, 46 ECAB 198 (1994).