

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of EULA ELLINGTON and U.S. POSTAL SERVICE,  
POST OFFICE, San Francisco, CA

*Docket No. 98-1943; Submitted on the Record;  
Issued January 7, 2000*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained an emotional condition on February 25, 1997.

The Board has duly reviewed the case on appeal and finds that appellant failed to establish that she sustained an emotional condition on February 25, 1997.

Appellant, a city carrier, filed a claim on March 7, 1997 alleging that on February 25, 1997 during a conversation with her supervisor she developed an emotional condition. The Office of Workers' Compensation Programs denied appellant's claim on May 29, 1997 finding that she failed to establish fact of injury. Appellant requested an oral hearing and by decision dated April 16, 1998, the hearing representative modified the Office's decision finding that appellant failed to establish that she sustained an injury in the performance of duty.

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, appellant attributed her emotional condition to incidents occurring on February 25, 1997. Appellant alleged that her supervisor, Michael J. Harris, denied a request for overtime by becoming irate, yelling and ordering her from his desk. Appellant sought the

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

postmaster, and Mr. Harris followed “stalking her.” Appellant stated that she requested sick leave and that Mr. Harris required that she present a doctor’s excuse.

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. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.<sup>2</sup>

Appellant has submitted no evidence in support of the allegations that Mr. Harris erred in denying her request for overtime or in requesting medical documentation for sick leave. Therefore, appellant has failed to establish error or abuse in an administrative action.

Appellant has also alleged that her supervisor acted unreasonably in the method by which he denied her request for overtime and for sick leave. Appellant filed an Equal Employment Opportunity complaint alleging discrimination based on race and gender. In support of her claim, appellant submitted a statement from Lilibeth Buencamino, a shop steward, who stated that she was present during the February 25, 1997 incident and that she would respond to requests for additional information. Ms. Buencamino did not describe the events or support appellant’s claim.

Mr. Harris submitted a statement dated March 31, 1997 and specifically denied yelling, threatening, intimidating, chasing or stalking appellant on February 25, 1997. He stated that appellant requested overtime to complete her route, that he denied this request and informed appellant that if she needed overtime she could call and ask once on her route. Mr. Harris stated that he repeated his instructions five times and then instructed appellant to “leave for the street.” Appellant then approached the postmaster, Mr. Harris followed her and repeated his instructions.

For harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did, in fact, occur. Mere perceptions of harassment or discrimination are not compensable under the Act. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.<sup>3</sup> Appellant has submitted no evidence establishing a factual basis for her allegations of harassment or discrimination. Mr. Harris denied that his actions on February 25, 1997 were abusive and appellant has not submitted any evidence to the contrary. Due to the lack of supportive factual evidence, the Board finds that appellant has failed to meet her burden of proof in establishing that she sustained an emotional condition due to factors of her federal employment on February 25, 1997.

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<sup>2</sup> *Martha L. Watson*, 46 ECAB 407 (1995).

<sup>3</sup> *Alice M. Washington*, 46 ECAB 382 (1994).

The April 16, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.  
January 7, 2000

George E. Rivers  
Member

David S. Gerson  
Member

Michael E. Groom  
Alternate Member