

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARY ALSTON and DEPARTMENT OF HEALTH & HUMAN SERVICES,  
SOCIAL SECURITY ADMINISTRATION, Falls Church, VA

*Docket No. 99-1289; Submitted on the Record;  
Issued July 6, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained an emotional condition in the performance of duty on November 19, 1998.

The Board finds that appellant did not meet her burden of proof to establish that she sustained an emotional condition in the performance of duty on November 19, 1998.

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 an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>1</sup> On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or her frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>2</sup>

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by employment factors.<sup>3</sup> This burden includes the submission of a detailed

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>3</sup> *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.<sup>4</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office of Workers' Compensation Programs, 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.<sup>5</sup> If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.<sup>6</sup>

On December 15, 1998 appellant, then a 47-year-old records clerk, filed a traumatic injury claim alleging that she sustained a stress-related condition at work on November 19, 1998. Regarding the cause of the claimed injury, appellant stated that it was “[d]ue to confrontation with my superiors.” By decision dated February 22, 1999, the Office denied appellant’s emotional condition claim on the grounds that she did not establish any compensable employment factors. The Office found that appellant did not adequately describe the nature of the alleged November 19, 1998 employment incident.<sup>7</sup>

The Board finds that appellant has not provided sufficient evidence to establish the occurrence of a compensable employment incident on November 19, 1998. Other than to indicate that she had a confrontation with her superiors on November 19, 1998, appellant has not provided any details of the nature of the claimed employment incident on that date. For example, appellant did not provide the names of any superiors involved or provide any description of their actions or statements. The Office specifically requested that appellant provide additional factual evidence regarding the claimed employment incident but appellant did not respond to this request. The record contains a November 19, 1998 note which indicates that appellant reported to a nurse that she “had it out with my supervisor” on that date, but the note does not provide any additional details of the claimed incident. As noted above, appellant’s burden of proof to establish her claim includes the submission of a detailed description of the employment factors or conditions which she believes caused or adversely affected the condition or conditions for which compensation is claimed. Appellant did not meet this burden of proof in the present case.

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<sup>4</sup> *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

<sup>5</sup> *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

<sup>6</sup> *Id.*

<sup>7</sup> Although the Office made note of the medical evidence it essentially denied appellant’s claim on the factual basis that she had not established a compensable employment factor.

For the foregoing reasons, appellant has not established any compensable employment factors under the Act and, therefore, has not met her burden of proof in establishing that she sustained an emotional condition in the performance of duty.<sup>8</sup>

The decision of the Office of Workers' Compensation Programs dated February 22, 1999 is affirmed.<sup>9</sup>

Dated, Washington, D.C.  
July 6, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>8</sup> As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; *see Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

<sup>9</sup> Appellant submitted additional evidence after the Office's February 22, 1999 decision, but the Board cannot consider such evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).