

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROL S. LARKINS and U.S. POSTAL SERVICE,
POST OFFICE, North Canton, OH

*Docket No. 98-2237; Submitted on the Record;
Issued March 2, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained an emotional condition in the performance of duty.

The Board has carefully reviewed the record of evidence and finds that appellant has failed to meet her burden of proof in establishing that her emotional condition was caused by work factors.

Under the Federal Employees' Compensation Act,¹ appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by factors of his or her federal employment. To establish that he or she sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his or her condition; (2) medical evidence establishing that he or she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his or her emotional condition.²

Workers' compensation law does not cover each and every injury or illness that is somehow related to an employee's employment.³ There are distinctions regarding the type of work situation giving rise to an emotional condition which will be covered under the Act.

For example, disability resulting from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employing establishment

¹ 5 U.S.C. §§ 8101-8193.

² *Vaile F. Walders*, 46 ECAB 822, 825 (1995).

³ *Lillian Cutler*, 28 ECAB 125, 129 (1976).

is covered.⁴ However, an employee's emotional reaction to an administrative or personnel matter is generally not covered⁵ and disabling conditions caused by an employee's fear of termination or frustration from lack of promotion are not compensable. In such cases, the employee's feelings are self-generated in that they are not related to assigned duties.⁶

Nonetheless, if the evidence demonstrates that the employing establishment erred or acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁷ However, an employee must support her allegations with probative and reliable evidence; personal perceptions alone are insufficient to establish an employment-related emotional condition.⁸

The initial question is whether appellant has alleged compensable employment factors as contributing to her condition.⁹ Appellant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents which he or she believes caused or adversely affected the condition for which she claims compensation.¹⁰ If appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.¹¹

In this case, appellant, then a 41-year-old letter carrier, filed a notice of occupational disease on January 14, 1998 alleging that her anxiety, depression, nervousness, inability to sleep or eat and hallucinations were related to her waiting for a letter of termination four weeks after she had injured herself in a work-related accident.

By letter dated February 10, 1998, the Office informed appellant that the evidence was insufficient to support her claim and advised her of the type of evidence required to support her claim. The Office then advised her that she had until March 10, 1998 to submit medical and factual evidence to support her claim.

On March 9, 1998 the Office denied the claim on the grounds that the evidence was insufficient to establish that appellant's emotional condition had arisen in the performance of duty. In the attached memorandum, the Office noted that appellant had not submitted any additional information.

⁴ *Jose L. Gonzalez-Garced*, 46 ECAB 559, 563 (1995).

⁵ *Sharon J. McIntosh*, 47 ECAB 754, 756 (1996).

⁶ *Barbara E. Hamm*, 45 ECAB 843, 850 (1994).

⁷ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

⁸ *Ruthie M. Evans*, 41 ECAB 416, 425 (1990).

⁹ *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

¹⁰ *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

¹¹ *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

By letter dated March 12, 1998, the Office acknowledged receipt of additional information and vacated its March 9, 1998 decision as it had been issued prior to the deadline date of March 9, 1998.

By decision dated April 21, 1998, the Office denied appellant's claim on the grounds that the evidence failed to establish that appellant's emotional condition was due to compensable work factors. In the attached memorandum, the Office noted that fear of or receiving a termination letter is not compensable as it is a self-generated response and unrelated to her employment duties. The Office also found that merely because the termination letter was later expunged did not establish error or abuse such that it would become a compensable factor.

Appellant has alleged that she had a fear of termination and while waiting for the employing establishment's letter of termination she became anxious, depressed, unable to sleep or eat and had hallucinations. Disabling conditions caused by an employee's fear of termination and suspension are not compensable factors under the Act. In such cases, the employee's feelings are self-generated and are not related to assigned duties.¹²

Appellant's allegation falls into the category of administrative or personnel actions. The Board has 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.¹³ The Board has held, 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.¹⁴ Absent evidence of error or abuse, the resulting emotional condition must be considered self-generated and not employment generated.

Appellant has failed to establish that the employing establishment committed error or abuse in issuing her letter of termination which was subsequently expunged. In support of her claim, appellant submitted letters from union officials claiming that appellant had been treated unfairly by the employing establishment. While such personnel actions may be upheld, reversed, or modified through various procedures such as arbitration or the grievance process, the settlement of labor management disputes through such processes does not, in itself, establish that the employing establishment's actions were either erroneous or unreasonable.¹⁵ Nor does the resolution of a particular dispute in appellant's favor demonstrate that the subject matter of the grievance was an employment factor.¹⁶ Thus, the filing and resolution of appellant's grievances are insufficient to establish either a compensable work factor or erroneous or abusive actions by

¹² *Barbara E. Hamm, supra* note 6.

¹³ *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

¹⁴ *Richard J. Dube*, 42 ECAB 916 (1991).

¹⁵ *Barbara J. Nicholson*, 45 ECAB 803, 810 (1994).

¹⁶ *Paul Trotman-Hall*, 45 ECAB 229, 238 (1993).

the employing establishment.¹⁷ Inasmuch as appellant has failed to establish error or abuse by the employing establishment in the handling of the above administrative or personnel matters, the Board finds that appellant has failed to establish a compensable employment factor. The Board further finds that the medical evidence need not be considered as appellant has not established any compensable work factors under the Act.¹⁸

The decision of the Office of Workers' Compensation Programs dated April 21, 1998 is hereby affirmed.

Dated, Washington, D.C.
March 2, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member

¹⁷ *Diane C. Bernard*, 45 ECAB 223, 228 (1993).

¹⁸ *See Dinna M. Ramirez*, 48 ECAB 308 (1997) (finding that the Board need not consider psychiatric evidence because appellant failed to establish that the employing establishment acted abusively in denying her request for official time).