

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LOLITA F. ABILLE and DEPARTMENT OF THE NAVY,  
FLEET & INDUSTRIAL SUPPLY CENTER, Bremerton, WA

*Docket No. 99-1518; Submitted on the Record;  
Issued April 30, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

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

On June 24, 1998 appellant, then a 45-year-old materials examiner and identifier, filed an occupational illness claim asserting that she developed stress as a result of her federal employment. She did not elaborate.

On July 28, 1998 the Office of Workers' Compensation Programs requested that appellant submit additional information to support her claim, including a statement from her identifying the incidents or factors of employment that she felt contributed to the development of her stress condition.

In response to the Office's request, appellant submitted medical documents and documents relating to complaints before the Equal Employment Opportunity Commission (EEOC) and Occupational Safety and Health Administration (OSHA). She also submitted diary entries from April 17 to August 31, 1998 describing her interactions with her supervisor.

These materials indicated that appellant intended to establish the following: a particular supervisor screamed at her inappropriately, often times in her workspace and accused her of not working properly; he denied her vacation time, marked her absent without leave and tried to take away her sick time; he belittled and harassed her; he falsely accused her of not cleaning up after doing some work; appellant was told that disciplinary action would be taken because of her frequent illnesses and accidents; she believed that she was working in an unsafe environment; the supervisor followed her around, criticizing her work and tried to have her work to standards that were different from those of the other employees in her shop; she was discriminated against on the basis of her sex, race and national origin; her supervisor asked her to lift and work beyond her capacities; and she was being retaliated against for reporting OSHA violations.

In a decision dated March 12, 1999, the Office denied appellant's claim for compensation. The Office found that appellant had not met the requirements for establishing that she sustained an injury in the performance of duty.

The Board finds that appellant failed to establish that she 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.<sup>1</sup> 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;<sup>2</sup> neither do disciplinary matters consisting of counseling sessions, discussion or letters of warning for conduct,<sup>3</sup> investigations,<sup>4</sup> determinations concerning promotions and the work environment,<sup>5</sup> discussions about an SF-171,<sup>6</sup> reassignment and subsequent denial of requests for transfer,<sup>7</sup> discussion about the employee's relationship with other supervisors,<sup>8</sup> or the monitoring of work by a supervisor.<sup>9</sup>

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, may afford coverage.<sup>10</sup> 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.<sup>11</sup>

Appellant attributed her stress to the conduct of her supervisor. However, her emotional reaction to her supervisory or administrative actions is generally outside the scope of coverage of workers' compensation. To establish entitlement to compensation, appellant must do more than allege a personality conflict. She must substantiate managerial error or abuse with probative and reliable evidence. The record in this case contains no such evidence.

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

<sup>2</sup> *Joseph F. McHale*, 45 ECAB 669 (1994).

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

<sup>4</sup> *Sandra F. Powell*, 45 ECAB 877 (1994).

<sup>5</sup> *Merriett J. Kauffman*, 45 ECAB 696 (1994).

<sup>6</sup> *Lorna R. Strong*, 45 ECAB 470 (1994).

<sup>7</sup> *James W. Griffin*, 45 ECAB 774 (1994).

<sup>8</sup> *Raul Campbell*, 45 ECAB 869 (1994).

<sup>9</sup> *Daryl R. Davis*, 45 ECAB 907 (1994).

<sup>10</sup> *Margreate Lublin*, 44 ECAB 945 (1993).

<sup>11</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

Appellant filed complaints of discrimination and retaliation with the EEOC and OSHA but submitted no finding or decision, favorable to, or supporting any of her allegations. She has offered no other persuasive evidence to corroborate her allegations against her supervisor or to establish that her supervisor acted outside the bounds of his supervisory functions either in communicating with her, in assigning or reviewing her work, or in taking administrative actions such as those relating to leave or disciplinary matters. Without persuasive evidence that error or abuse or discrimination or retaliation did in fact occur, the record fails to establish a compensable incident or factor of employment, that is an incident or factor of employment that falls within the scope of coverage of workers' compensation.

The March 12, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
April 30, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member