

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MATILDA R. WYATT and DEPARTMENT OF DEFENSE,
DEFENSE LOGISTICS, Los Alamitos, CA

*Docket No. 00-1564; Submitted on the Record;
Issued July 6, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an emotional condition in the performance of duty, causally related to factors of her federal employment.

On December 22, 1999 appellant, then a 48-year-old occupational safety and health specialist, filed an occupational disease claim, alleging that her stress resulted from her federal employment. She attributed this stress to the following incidents: Reflex sympathetic dystrophy and chronic pain, the denial of her workers' compensation claim for an aggravated work injury on March 22, 1999, the denial of her medical retirement in August 1999, her bankruptcy due to a reduction-in-force (RIF) and lack of leave time to receive therapy, treatments or time off from work.

By decision dated February 16, 2000, the Office of Workers' Compensation Programs denied appellant's claim without further development finding that appellant had not established a compensable factor of employment.

The Board finds that appellant has failed to establish that she sustained an emotional condition arising out of her federal employment.

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 factors of her federal employment.¹ To establish her claim, that 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 her condition; (2) medical evidence establishing that she has an emotional or psychiatric

¹ *Edward C. Heinz*, 51 ECAB ____ (Docket No. 99-992, issued September 12, 2000); *Martha L. Street*, 48 ECAB 641, 644 (1997).

disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.²

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 coverage of workers' compensation. These injuries occur in the course of employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or to secure a promotion. On the other hand, where disability results from an employee's emotional reaction to her regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes under the coverage of the Federal Employees' Compensation Act.³ The Board must, thus, initially review whether appellant's alleged incidents and conditions of employment are compensable employment factors under the Act.

In this case, appellant alleged that her stress resulted from being denied her medical retirement and workers' compensation claims. The development of any condition related to such matters would not arise in the performance of duty because the processing of these claims bears no relation to appellant's day-to-day or specially assigned work duties.⁴ These are not compensable factors of employment.

Appellant alleged that her stress was caused by her reflex sympathetic dystrophy and chronic pain, but did not relate these symptoms to her employment. Whether these symptoms were the basis for appellant's earlier compensation claim, is unclear. However, appellant acknowledged that the earlier compensation claim was denied. Therefore, appellant has failed to establish this allegation as a compensable factor of employment.

Appellant also contends that she suffered stress from having to file for bankruptcy due to a RIF. As a general rule, a claimant's reaction to administrative or personnel matters falls outside the scope of the Act.⁵ There is an employer-employee relationship in a RIF, but the actual process of a RIF is administrative, a function of management. Absent evidence that the employer erred or acted unreasonably in carrying out the RIF and there is no such evidence in this record, appellant's fear of the personal consequences of a RIF does not rise to a compensable work factor.⁶ The fact that appellant did not have enough leave time to pursue therapy is also an administrative matter, which absent a showing of abuse, is not compensable.

² *Ray E. Shotwell, Jr.*, 51 ECAB ____ (Docket No. 99-2032, issued September 12, 2000); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

³ 5 U.S.C. §§ 8101-8193; *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ See *George A. Ross*, 43 ECAB 346, 353 (1991); *Virgil M. Hilton*, 37 ECAB 806, 811 (1986).

⁵ *Carolyn S. Philpott*, 51 ECAB ____ (Docket No. 98-760, issued November 18, 1999).

⁶ See *Janice Balan*, 37 ECAB 485, 293 (1986); see also *Donald W. Bottles*, 40 ECAB 349, 353 (1988).

Finally, the Board notes that the Office did not send appellant a request for further information, or further develop the claim. However, the Office's procedure manual states:

"In some instances, the evidence may indicate that no additional information could possibly overcome one or more defects in the claim (for instance a claim where a clear statement concerning incidents alleged to have caused a disability where none of the incidents occurred within [the] performance of duty). Such a case may be denied without further development."⁷

Even if appellant submitted evidence that the aforementioned incidents occurred, none would be found to have occurred in the performance of duty. Similarly, no medical evidence could cure this defect. Therefore, the Office properly chose to deny the claim rather than to develop the evidence further.

For the foregoing reasons, appellant has not established any compensable employment factor 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.⁸

The February 16, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
July 6, 2001

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsideration*, Chapter 2.800.5(c) (April 1993).

⁸ Appellant submitted additional evidence for the first time on appeal. The Board, however, may not review evidence for the first time on appeal that was not before the Office at the time it issued its final decision; *see* 20 C.F.R. § 501.2(c).