

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of DONNA TYRRELL and DEPARTMENT OF AGRICULTURE  
FOREST SERVICE, Ogden, UT

*Docket No. 00-1585; Submitted on the Record;  
Issued July 25, 2001*

---

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM

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

On August 19, 1998 appellant, then a 50-year-old program assistant, filed a notice of occupational disease and claim for compensation alleging mental stress, depression, anxiety attacks and chronic body pain due to factors of her federal employment. She stopped work on August 11, 1998 and has not returned.

Appellant alleged that she had a back injury caused by a fall at work on January 15, 1998.<sup>1</sup> She alleged that following the back injury, the employing establishment refused to provide her with the physical assistance she required to complete "urgent" reports. Appellant filed a complaint with the Equal Employment Opportunity Commission (EEOC). She alleged that she was subjected to a hostile working environment before and after she filed the EEOC complaint. Appellant further alleged that she suffers from "mental stress (depression/anxiety attacks) which occur after long periods of excessive work load requiring sitting while working at fast pace and unassisted work assignments." She noted that the employing establishment denied her requests for assistance in preparing "urgent" work assignments. Appellant further related that she was undermined at a meeting on August 11, 1998 when a program manager misrepresented her position.

In an August 25, 1998 report, Dr. William D. Stratford, a Board-certified psychiatrist, diagnosed that appellant suffered from depression at a severe level with ongoing anxiety worsened intermittently by panic attacks, headaches and chronic pain. He described appellant's

---

<sup>1</sup> The Office of Workers' Compensation Programs accepted appellant's claim for a back contusion and she received a 60-day period of physical therapy. She was under the care of Dr. Sable, who noted in an April 20, 1998 report that appellant had low back pain of nonspecific etiology. He opined that appellant's complaints of back pain was psychosomatic in origin and had to do with tension at work between appellant and her supervisor.

condition as having “recently reached a crescendo.” Dr. Stratford recommended that she take four months of medical leave.

In a September 11, 1998 report, Dr. Stratford diagnosed adjustment disorder, mood disorder, major depression and severe anxiety disorder. He related that appellant was clinically distant and unstable. Dr. Stratford prescribed medication and suggested that appellant consider working out of her home because she could not be expected to work in a hostile or conflicted environment.

In an October 6, 1998 letter, the Office advised appellant of the factual and medical evidence required to establish her claim.

In a personal statement dated October 11, 1998, appellant advised that she had been placed on the “unfunded” list at her job with the Pacific Southwest Research Station in October 1995 and was therefore forced to transfer to a new position at the Rocky Mountain Research Station (RMRS).<sup>2</sup> At her new job, she alleged that she was met with animosity from the program manager, Charles George and the rest of the staff. Appellant stated that she was denied requests for orientation and training, that she could not get overtime pay for completing a filing system although it was suggested that she work on her own time at home on the project. She alleged that Mr. George refused to permit her to build a more efficient budget system on IBM equipment and instead required her to prepare budget reports without computerized assistance on an interval of every two weeks. Appellant stated that the constraints she was under to perform her duties on antiquated software programs required her to sit for prolonged periods of time. She contends that she suffered from mental exhaustion at the end of the day because she would have to reference as many as five documents at a time to confirm the accuracy of the data she entered.

In a decision dated November 24, 1998, the Office denied compensation on the grounds that the medical evidence of record was insufficient to establish that her emotional condition was causally related to factors of her federal employment.<sup>3</sup>

On November 30, 1998 appellant requested reconsideration and submitted a comprehensive medical report from Dr. Stratford dated October 13, 1998.

In an October 13, 1998 report, Dr. Stratford discussed appellant’s history of employment, physical symptoms and psychological history. He noted that appellant had a lot of suspicious and paranoid attitudes about her employer and their treatment and management of her employment, but that he had no way to validate her allegations. Current stressors were identified as work-related conflicts, back pain, aging and economic problems brought on by a demotion and credit card bills that were alleged by appellant as not being properly reimbursed by the employing establishment. Dr. Stratford diagnosed that appellant suffered from clinical

---

<sup>2</sup> In an April 7, 1999 statement, Shari Blakely, Director of Human Resources Management for the RMRS, stated that appellant was not demoted from her prior position at Pacific Southwest Research Station (PSW) in Berkeley, California. She indicated that the transfer to RMRS resulted in an increase in annual salary.

<sup>3</sup> The Office did not resolve the issue of performance of duty.

syndromes including somatoform disorder, general anxiety disorder and major depression. He further diagnosed a personality disorder with a strong suggestion of mixed personality traits with obsessive/compulsive and paranoid features. Dr. Stratford stated:

“I am unable to report on or comment on for that matter, the nature of [appellant’s] employment and whether or not she has been treated badly and/or made to suffer from a discriminatory and hostile workplace. She alleges it is so. I have no way to comment. I do, however, believe that [appellant] is in marked emotional distress, with strong components of documented anxiety and depression, somatoform features and strongly held suspicious themes which I believe preclude her from returning to the workplace.”

In a November 30, 1998 letter, Dr. Stratford stated that in his professional opinion, appellant did have preexisting problems and that her relationship with the Forest Service had aggravated or contributed to her medical condition but “has perhaps not caused it.” He noted his agreement with Dr. Sable that stress factors on the job were increasing appellant’s physical or somatoform traits. Dr. Stratford also noted that stress factors have amplified appellant’s anxiety, depression and personality traits, along with her physical condition.

In a decision dated April 9, 1999, the Office denied modification of its prior decision. The Office specifically found that appellant had failed to allege compensable factors of employment. The Office further determined that Dr. Stratford’s October 13, 1998 opinion was not sufficiently reasoned to establish the issue of causal relationship.

On January 18, 2000 appellant filed a request for reconsideration.

In support of her reconsideration request, she submitted an EEO counselor/mediator report dated May 13, 1998. That report includes statements from appellant’s supervisors, Mr. George and Cecilia W. Johnson. Mr. George acknowledged that when appellant was first transferred to his office she was not his first choice for the position; however, he denied making her work long hours without breaks and insisted that the deadline requirements were not imposed as a form of harassment. He further noted that he often had to check appellant’s work for mistakes. Ms. Johnson response was that she was initially satisfied with appellant’s work but that appellant progressively began to complain about not being able to work independently. She did not feel that appellant could work without supervision since many of her assignments had been performed incorrectly or contained mistakes. Ms. Johnson further noted that Mr. George had been concerned that appellant was not accurately reflecting her time and attendance at work.

The record also contains recorded minutes of a January 12, 1998 meeting between appellant, her fellow coworkers and Dick Krebill, Director of the RMRS. During the meeting appellant and her coworkers complained that Mr. George created a hostile working environment.

The record further includes an emergency room report from St. Patrick Hospital dated August 12, 1998 indicating that appellant was treated for an impulsive drug and alcohol overdose, a November 30, 1999 report from Dr. James R. Burton, a Board-certified orthopedic surgeon, and various medical records pertaining to appellant’s back injury.

In a March 22, 2000 decision, the Office denied modification following a merit review.

The Board finds that appellant has failed to establish that she sustained an emotional condition in the performance of duty.

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his employment.<sup>4</sup> This burden includes the submission of a detailed description of the employment conditions or factors which appellant believes caused or adversely affected the condition for which she claims compensation.<sup>5</sup> This burden also includes the submission of rationalized medical opinion evidence, based upon a complete and accurate factual and medical background of appellant, showing a causal relationship between the condition for which compensation is claimed and the implicated factors or conditions of her federal employment.<sup>6</sup>

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 not found to have arisen out of the 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 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 within coverage of the Federal Employees' Compensation Act.<sup>7</sup>

In the present case, appellant contends that she was harassed by her supervisors, Mr. George and Ms. Johnson, and that their actions caused her to suffer from mental stress, depression and chronic body aches. With respect to Mr. George, appellant alleged that she did not receive proper orientation training for her job, that Mr. George refused to accommodate her requests for assistance in performing "urgent" projects, that he often made her work long hours but refused to pay her overtime and that ignored her suggestions on how to improve the organization of her workspace and work load. Having considered these alleged work factors, the Board finds that that they all concern administrative functions of the employing establishment and are not compensable. Appellant's supervisor had the authority to administer personnel decisions and to direct appellant in the performance of her job duties. In the absence of evidence of error or abuse by Mr. George in carrying out the administrative functions of his position, there is no basis for approval of appellant's claim for compensation.<sup>8</sup>

---

<sup>4</sup> *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

<sup>5</sup> *See generally* 20 C.F.R. §§ 10.115-116 (1999).

<sup>6</sup> *See Ruth C. Borden*, 43 ECAB 146 (1991).

<sup>7</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>8</sup> The Office properly determined that the employing establishment did not act abusively by charging appellant leave without pay when she stopped working in August 1998. It was also correctly noted by the Office that any

There is insufficient factual basis for concluding that appellant was harassed or discriminated against at work. For harassment to give rise to a compensable disability under the Act, there must be evidence that the harassment did in fact occur.<sup>9</sup> Appellant has not submitted any corroborating witness accounts of harassment by Mr. George or Ms. Johnson.<sup>10</sup> Mere perceptions of harassment are not compensable under the Act.<sup>11</sup>

Notwithstanding the above, appellant has alleged that she suffers from mental stress and anxiety due to periods of excessive workloads where she was required to sit for long periods of time, work a fast pace and reference “as many as five documents at a time.” When a claimant implicates workload as an employment factor, it is not necessary for purposes of compensability for the claimant to establish that he or she has a greater work load than others.<sup>12</sup> Emotional reactions to situations in which an employee is trying to meet his or her position requirements, when supported by sufficient evidence, are compensable.<sup>13</sup> However, appellant’s burden of proof was not discharged simply because she identified factors which may give rise to compensability under the Act. She was required to substantiate her allegations. Because there is no factual support for appellant’s contention that she was required to work long hours or that she was required to sit for long periods, she has not met her burden of proof. Mr. George specifically denied appellant’s allegations that she had to work overtime and stated that she was not required to work long hours without breaks as alleged.

The Board further notes that most of appellant’s complaints revolve around her desire to work independently of her supervisor. Frustration at not being able to work in a particular environment is not compensable under the Act.<sup>14</sup>

---

stress appellant felt as a result of filing her EEOC complaint or her workers’ compensation claim was not compensable since the reaction to this type of claim filing is not a part of appellant’s work duties.

<sup>9</sup> *Bernard Snowden*, 49 ECAB 144 (1997); *Ronald C. Hand*, 49 ECAB 113 (1997).

<sup>10</sup> Although appellant submitted notes from a January 12, 1998 meeting where many employees complained about Mr. George, she did not supply a final decision from an administrative agency such as the EEOC indicating that she worked in a hostile work environment.

<sup>11</sup> *Id.*

<sup>12</sup> *Richard H. Ruth*, 49 ECAB 503 (1997).

<sup>13</sup> *Id.*

<sup>14</sup> *Peggy R. Lee*, 46 ECAB 527 (1995).

Because the Board finds that appellant has failed to establish a compensable factor of employment, it is not necessary to consider the medical evidence.<sup>15</sup> Consequently, the Board finds appellant has failed to establish that she sustained an emotional condition in the performance of duty and that the Office properly denied compensation benefits.

The decision of the Office of Workers' Compensation Programs dated March 22, 2000 is hereby affirmed.

Dated, Washington, DC  
July 25, 2001

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

---

<sup>15</sup> The Board notes, however, that there is no rationalized medical opinion evidence of record to establish that appellant's emotional condition is causally related to excessive work loads or any aspect of appellant's regular or specially assigned work duties. The October 13, 1998 opinion from Dr. Stratford states that appellant's emotional problems stem from her suspicious and paranoid attitude towards her employer, conflicts with her employer and financial problems.