

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LESSIE M. METCALF and U.S. POSTAL SERVICE,
DELBERT ATKIN STATION, Pasadena, TX

*Docket No. 00-2300; Submitted on the Record;
Issued July 16, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

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

On May 6, 1999 appellant, then a 47-year-old city letter carrier, filed a claim for an occupational disease alleging that on March 16, 1999 she first realized that her stress was caused or aggravated by her employment. Her claim was accompanied by factual and medical evidence.

By letter dated July 1, 1999, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish her claim. The Office requested that appellant submit factual and medical evidence supportive of her claim. By letter of the same date, the Office requested that the employing establishment submit evidence regarding appellant's claim.

By decision dated August 19, 1999, the Office found the evidence of record insufficient to establish that appellant sustained an emotional condition while in the performance of duty. On February 18, 2000 appellant, through her counsel, requested reconsideration of the Office's decision accompanied by factual and medical evidence.

In a May 15, 2000 decision, the Office denied appellant's request for modification based on a merit review of her claim.

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

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 the Federal Employees' Compensation Act. Where the disability results from an employee's emotional reaction to his or her regular or specially assigned work duties or requirements of the employment, the disability comes within the coverage of the Act. On the other hand, where disability results from such factors as an employee's emotional reaction to employment matters

unrelated to the employee's regular or specially assigned work duties or requirements of the employment, the disability is generally regarded as not arising out of and in the course of employment and does not fall within the scope of coverage of the Act.¹

Perceptions and feelings alone are not compensable. 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.² 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 disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.³

In this case, appellant has attributed her emotional condition to administrative or personnel actions taken by the employing establishment. 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 because such matters pertain to procedures and requirements of the employer and do not bear a direct relation to the work required of the employee.⁴ 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.⁵ Absent evidence of such error or abuse, the resulting emotional condition must be considered self-generated and not employment generated.

Appellant's allegations regarding the denial of her request for a transfer to a training program and to another position closer to her home,⁶ a promotion to a management position,⁷ and a route inspection involve administrative or personnel matters. Similarly, appellant's allegations that she was followed on her route, not allowed to talk to her coworkers while getting her mail ready, watched while she was on a break,⁸ and reprimanded for failing to report she had left mail on the floor by her route, working unauthorized overtime for leaving mail in her truck, and⁹ parking her truck in someone else's spot also¹⁰ involved administrative matters. Appellant

¹ *Lillian Cutler*, 28 ECAB 125 (1976).

² *Pamela R. Rice*, 38 ECAB 838 (1987).

³ *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁴ *Thomas D. McEuen*, 41 ECAB 389 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

⁵ *See Richard J. Dube*, 42 ECAB 916 (1991).

⁶ *Goldie K. Behymer*, 45 ECAB 508, 511 (1994); *Thomas D. McEuen*, *supra* note 4.

⁷ *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁸ *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Michael Thomas Plante*, 44 ECAB 510 (1993).

⁹ *Janet I. Jones*, 47 ECAB 345 (1996).

¹⁰ *Diane C. Bernard*, 45 ECAB 223 (1993).

has not submitted any evidence establishing that the employing establishment committed error or abuse in handling these matters. Thus, appellant has failed to establish a compensable factor of employment.

Appellant alleged that she was harassed by management because she could not complete her route within eight hours and that her requests for help were denied despite an inspection that showed her route took more than eight hours. Appellant also alleged she was harassed by Fred Ratliff, who yelled at her when he came to help her, by Deborah J. Gonzales, appellant's station manager, who told her to quit her job after she stated that she could no longer carry her route, and by her coworkers because she worked fewer hours than they.

The Board has held that actions of an employee's supervisors or coworkers, which the employee characterizes as harassment, may constitute a factor of employment giving rise to a compensable disability under the Act. For harassment to give rise to a compensable disability there must be evidence that harassment or discrimination did, in fact, occur. Mere perceptions of harassment are not compensable. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred.¹¹

Appellant has failed to submit any corroborative evidence to support her allegation that Mr. Ratliff or Ms. Gonzalez yelled at her and that she was harassed by her coworkers. Therefore, she did not establish a compensable factor of employment. However, the record contains evidence in support of appellant's allegation that she was unable to complete her route within an eight-hour period. Ms. Gonzalez, in a July 30, 1999 letter, stated:

“[Appellant] is [a] full-time Letter Carrier on route 448, a route she bid on. She came to this unit on limited[-]duty status. She could not carry her mounted delivery. The mounted delivery was relieved from her daily, and she still had problems completing her assignment daily. The part of her route relieved was not replaced with more work, therefore there was no added stress to complete her assignment daily, she had less mail to carry, but had the same eight hours to complete her assignment.”

Ms. Gonzalez acknowledged that appellant was unable to finish her route within eight hours and that although appellant's route was reduced, she was still unable to finish her route within the required time period. The Board has held that emotional reactions to situations in which an employee is trying to meet her position requirements are compensable.¹² The Board finds the evidence substantiates a compensable factor of employment with respect to appellant's day-to-day and assigned duties.¹³

Although appellant has established a factor of employment, which may give rise to a compensable disability under the Act, her burden of proof is not discharged. To establish her occupational disease claim for an emotional condition, appellant must also submit rationalized

¹¹ *William E. Seare*, 47 ECAB 663 (1996).

¹² *See Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

¹³ *See Lillian Cutler*, *supra* note 1.

medical evidence establishing that she has an emotional or psychiatric disorder and that such disorder is causally related to the accepted compensable employment factor.¹⁴

In this case, there is no medical report that specifically relates appellant's emotional condition to the accepted employment factor, appellant's overwork. Dr. Lawrence D. Ginsberg, a psychiatrist, stated in his May 6, 1999 report that appellant's emotional condition was aggravated by the history she provided, which included stress due to not hearing anything about her requests for a transfer to a less strenuous job. As previously found, appellant's request for a transfer involves an administrative matter¹⁵ and appellant has failed to establish any error or abuse by the employing establishment in handling her requests. Therefore, Dr. Ginsberg's report does not discharge appellant's burden.

The April 30, 1993 medical notes of a physician, whose signature is illegible, indicated that appellant's emotional condition was due to her inability to cope at work and harassment at work. These notes failed to identify specific work incidents that were responsible for appellant's emotional condition. Thus, they do not discharge appellant's burden.

There is no other medical evidence of record addressing a causal relationship between appellant's emotional condition and compensable factors of her employment. As there is no rationalized medical evidence establishing that appellant's emotional condition was causally related to the accepted compensable employment factor, appellant's overwork, appellant has failed to discharge her burden of proof.

The May 15, 2000 and August 19, 1999 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
July 16, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member

¹⁴ See *William P. George*, 43 ECAB 1159, 1168 (1992).

¹⁵ *Goldie K. Behymer*, *supra* note 6; *Thomas D. McEuen*, *supra* note 4.