U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PATRICIA G. CARR and U.S. POSTAL SERVICE,
PROCESSING & DISTRIBUTION CENTER, Washington, DC

*Docket No. 00-1787; Submitted on the Record;*
*Issued June 25, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant 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 an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.[1] On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or her frustration from not being permitted to work in a particular environment or to hold a particular position.[2]

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 employment factors.[3] This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.[4]

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its

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[1] 5 U.S.C. §§ 8101-8193.

[2] *See Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

[3] *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

[4] *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.[5] If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.[6]

In this case, on August 7, 1998 appellant, then 58-year-old mail supervisor, filed a claim for traumatic injury alleging that she sustained an emotional condition as a result of an August 6, 1998 altercation with her supervisor, Thomas Evans. By decision dated March 1, 1999, the Office denied appellant's claim on the grounds that she did not establish any compensable employment factors. Appellant requested reconsideration and by decision dated March 22, 2000, the Office found the newly submitted evidence insufficient to warrant modification of the prior decision. The Board must, therefore, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

Appellant specifically asserted that on August 6, 1998, when she returned from lunch she heard a page from her supervisor, Mr. Evans. She stated that when she met with him, he became very angry with her and verbally threatened her with a letter of warning for not having notified him that she was going to lunch. Appellant explained that the previous day, August 5, 1998, Mr. Evans had asked her to let him know when she was going to lunch or to tell his secretary or the automation staff. She stated that on August 6, 1998 when she left for lunch, she followed his instructions and notified his secretary, but when she returned, she learned that there had been a breakdown in communication and that Mr. Evans had not received the notification.

Appellant alleged that Mr. Evans spoke to her in a loud voice, threatened her with a letter of warning, and pointed his finger at her, telling her that she better not go to lunch any more without telling him. She asserted that she had followed Mr. Evans' instructions and, therefore, did not deserve a reprimand, and that even if she had done something wrong, Mr. Evans' behavior was inappropriate. As a result of this altercation, appellant asserted that she suffered an acute stress reaction, characterized by confusion, crying, slow speech, tightness and heaviness in her chest, elevated blood pressure, nervousness and throbbing in her back.

Appellant's allegation that Mr. Evans unfairly admonished her for failing to notify him when she left for lunch relates to an administrative or personnel matter, which is unrelated to the employee's regular or specially assigned work duties and does not fall within the coverage of the Act.[7] Although matters such as the handling of disciplinary actions, evaluations and leave requests, the assignment of work duties, and the monitoring of activities at work are generally

[5] *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

[6] *Id.*

[7] *See Janet I. Jones*, 47 ECAB 345, 347 (1996), *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

related to the employment, they are administrative functions of the employer and not duties of the employee.[8] However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment.

In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.[9]

In support of her claim, appellant submitted several narrative statements concerning the altercation she had with Mr. Evans on August 6, 1998. She also submitted statements from a number of coworkers regarding the events of August 6, 1998. Millicent K. Jones stated that she heard appellant being paged on the radio by another supervisor who was trying to locate appellant for Mr. Evans. Janice Hiligh indicated that she recalled appellant telling her that she was going to lunch; Waverly Vaughan stated that appellant was an excellent supervisor and Gwendolyn Kettles expressed her own concerns regarding Mr. Evans and the other supervisors at the employing establishment.

While these four statements address the events of the day, they do not discuss the August 6, 1998 altercation that took place between appellant and Mr. Evans. Therefore, they do not support appellant's claim for harassment.

In more relevant statements, Laura Green recalled that on August 6, 1998 she heard an exchange of unpleasant words between appellant and Mr. Evans, resulting in appellant becoming very, very upset. Jackie Lewis stated that she heard loud voices which she recognized as belonging to Mr. Evans and appellant and Charles Schweitzer stated that from about 35 feet away, he heard Mr. Evans yelling and pointing his finger at appellant.

The record also contains a narrative statement from Mr. Evans, in which he refuted appellant's allegations. Mr. Evans stated that on the previous day, August 5, 1998, appellant had changed her lunch schedule without telling him. When asked about it, she stated that she had notified Mr. Jones. Mr. Evans explained that at that point he told appellant that as Mr. Jones works in a secluded location, appellant "might as well have told the secretary." Mr. Evans stated that he then instructed appellant to let him know when she was changing her schedule. He added that at no time did he tell appellant that she could inform the secretary of her changes in schedule or, in the alternative, work it out with the automation supervisors, and that appellant appeared to have misinterpreted his instructions.

Mr. Evans added that when he and another supervisor toured appellant's area of operations on August 6, 1998, they observed several irregularities that needed appellant's immediate attention. Mr. Evans stated that he made numerous attempts to locate appellant, but to no avail. When he finally did locate appellant and asked her where she had been, she indicated that she had taken a late lunch. Mr. Evans acknowledged that he told appellant that, in the future, if she did not inform him that she was changing her lunch schedule, corrective action

[8] *Id.*

[9] *See Richard J. Dube*, 42 ECAB 916, 920 (1991).

would be necessary. Mr. Evans stated that appellant was asked to step outside his office because of the loudness of her voice. He denied ever having pointed his finger at her.

The Board finds that the evidence regarding the August 6, 1998 incident is insufficient to establish abuse on part of supervisor Evans. The witnesses' statements indicate that he was reprimanding appellant for being derelict in informing him of her absence. However, there is no probative, reliable evidence establishing abuse or unreasonableness on the part of Mr. Evans.[10] Thus, appellant has not established a compensable employment factor under the Act. Therefore, appellant has not met her burden of proof to establish that she sustained an emotional condition in the performance of duty.[11]

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

Dated, Washington, DC
June 25, 2001

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

[10] *See Margreate Lublin*, 44 ECAB 945 (1993).

[11] As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; *see Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).