

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JULIA M. CALDERAZZO and DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE, Laguna Niguel, CA

*Docket No. 00-2171; Submitted on the Record;  
Issued June 12, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

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

On September 15, 1999 appellant, then a 43-year-old data transcriber, filed a claim for "stress-related mental problems." In a statement accompanying her claim form, appellant described incidents and conditions of her employment to which she attributed her emotional condition. Appellant stopped work on September 25, 1996 and did not return.

By letter dated December 6, 1999, the Office of Workers' Compensation Programs advised appellant of the evidence needed, including further description of employment factors and a recent comprehensive medical report from her treating physician containing the doctor's opinion, with medical reasons on the cause of her condition. Appellant submitted a December 28, 1999 statement further describing employment factors and also submitted reports from her attending physicians and counselors. In response to an Office request, the employing establishment submitted a March 2, 2000 statement commenting on appellant's allegations.

By decision dated March 31, 2000, the Office found that appellant had not established that she sustained a psychiatric condition in the performance of her duties.

The Board finds that appellant has not established that she sustained an emotional condition 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 his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act. 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 his frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>1</sup> Generally, actions of the employing establishment in administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties, do not fall within coverage of the Act. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of personnel matters, coverage may be afforded.<sup>2</sup>

Appellant's reaction to the employing establishment's denial of promotions or details is not covered under the Act, as it does not involve appellant's ability to perform her regular or specially assigned work duties.<sup>3</sup> Appellant's assignment as the security desk monitor for almost one year is an administrative action by the employing establishment,<sup>4</sup> and appellant has not shown error or abuse in this assignment. Appellant's reaction to a less senior employee being made her temporary supervisor also is not covered under the Act.<sup>5</sup> The two documented disciplinary actions -- a letter of reprimand for insubordination in 1995 and an August 28, 1996 proposed disciplinary suspension for conduct becoming an Internal Revenue Service employee -- are administrative functions of the employer and not duties of the employee and would be covered only if error or abuse by the employing establishment is established.<sup>6</sup> There is no evidence of error or abuse in the disciplinary actions taken by the employing establishment. Any reaction appellant had to being told not to sing while working falls into this same category and no error or abuse is established in the employing establishment's instructions not to sing.

Appellant also alleged that she was harassed by her supervisor. The Board has held that actions of an employee's supervisor which the employee characterizes as harassment or discrimination may constitute factors of employment giving rise to coverage under the Act. However, for harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did in fact occur. Mere perceptions alone of harassment or discrimination are not compensable under the Act.<sup>7</sup>

Appellant's allegations of harassment are too general to support a claim for compensation. Appellant's burden of proof includes the submission of a detailed description of the employment conditions or incidents, to which she attributes her emotional condition.<sup>8</sup> Her allegations that her supervisor would not listen to her or accept her explanations and made her feel stupid involve appellant's perceptions and nonspecific allegations that are not susceptible to

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

<sup>2</sup> *Michael Thomas Plante*, 44 ECAB 510 (1993).

<sup>3</sup> *Donald W. Bottles*, 40 ECAB 349 (1988).

<sup>4</sup> *James W. Griffin*, 45 ECAB 774 (1994).

<sup>5</sup> See *George Derderian*, 33 ECAB 1910 (1982). (The Board found that the employee's distress over the assignment of one of his subordinates as his acting supervisor was not a compensable factor of employment).

<sup>6</sup> *Sharon R. Bowman*, 45 ECAB 187 (1993).

<sup>7</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>8</sup> *Effie O. Morris*, 44 ECAB 470 (1993).

being corroborated or denied. The allegation that her supervisor documented everything that appellant did and said shows only monitoring of appellant's work by her supervisor, which is an administrative function of the employer.<sup>9</sup>

Appellant has presented one compensable factor of employment: pressure in trying to meet the requirements of her position.<sup>10</sup> Appellant stated that the position of statute control clerk, which she held from September 13, 1987 to October 23, 1988, was stressful "because of the amount of accuracy involved." Appellant's second-level supervisor stated that the recorded statute date on all incoming work was checked for accuracy by a statute control clerk. Appellant also cited the accuracy requirement of the position of data transcriber, which is consistent with the position description provided by the employing establishment. Appellant also stated that it was hard for her to keep up with her work load while she was recovering from breast cancer surgery in 1993. These allegations which are not contradicted, establish a compensable factor of employment.

Appellant's burden of proof, however, is not discharged by the fact that she has established an employment factor which may give rise to a compensable disability under the Act. To establish her occupational disease claim for an emotional condition, appellant must also submit rationalized medical evidence establishing that she has an emotional or psychiatric disorder and that such disorder is causally related to the accepted compensable employment factor.<sup>11</sup> This appellant has not done.

The medical evidence submitted by appellant establishes that she has an emotional condition, diagnosed on August 8, 1990 by Dr. Donald Pratt, a Board-certified internist, as diagnosis with occasional anxiety-type symptoms. The only medical reports that address causal relation, however, do so in too general a way to meet appellant's burden of proof. In a report dated June 20, 1990, Dr. Pratt stated that appellant had an exacerbation of gastritis and irritable bowel syndrome due to job-related stress. In a report dated June 8, 1990, Dr. Alderson, a clinical psychologist, listed job stressors of personality conflicts with supervisors, complaints of coworkers and close friends on the job having moved. None of the medical reports submitted by appellant indicate that her condition is causally related to an accepted compensable employment factor.

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<sup>9</sup> *Jimmy Gilbreath*, 44 ECAB 555 (1993).

<sup>10</sup> *Anne L. Livermore*, 46 ECAB 425 (1995).

<sup>11</sup> *William P. George*, 43 ECAB 1159 (1992).

The March 31, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
June 12, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member