

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PRISCILLA SMITH and U.S. POSTAL SERVICE,  
POST OFFICE, Chicago, IL

*Docket No. 00-1460; Submitted on the Record;  
Issued May 4, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained an emotional condition in the performance of duty.

On January 4, 2000<sup>1</sup> appellant, then a 44 year-old clerk, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that her supervisor snatched an accident report from her hand, hit her in the chest and knocked her to the floor causing her to become stressed and depressed.

In a December 13, 1999 statement, appellant's supervisor, Lynn Johnson, controverted appellant's claim. Ms. Johnson stated that she had not touched appellant harmfully or otherwise, nor had she harassed her.

In a February 25, 1999 report, which was received by the Office of Workers' Compensation Programs on January 4, 2000, Ms. Johnson offered a detailed explanation regarding the circumstances surrounding the incident with appellant. On February 16, 1999 appellant reported for a fitness-for-duty examination regarding an incident that occurred on February 8, 1999.<sup>2</sup> Ms. Johnson stated that she went to the medical unit with Francine Billingsley, a supervisor, to obtain a statement from appellant. Appellant advised Ms. Johnson that she would not provide a statement without a CA-1 and Ms. Billingsley was instructed to obtain one. While she was waiting for her fitness-for-duty examination, appellant subsequently filled out the statement and handed it to Ms. Johnson. However, appellant abruptly changed her mind and indicated that she wanted to make a copy and snatched it out of Ms. Johnson's hands.

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<sup>1</sup> The CA-1 indicates the form was filled out on February 22, 1999; however, it is signed by the supervisor on December 13, 1999 and it appears that the Office received it on January 4, 2000.

<sup>2</sup> Appellant was in the process of completing the paperwork for an employment incident that occurred on February 8, 1999 when she allegedly fell down the escalator.

Ms. Johnson stated that appellant was not authorized to make copies as “she was not working.” Ms. Johnson reached for the paper and indicated that she would make the copies. Appellant pulled on the paper and at that point, “she looked around (there was no one in sight) and she screamed and fell to the floor.” Ms. Johnson indicated that people rushed into the room at that point and appellant stated that Ms. Johnson was “harassing” her and that she was “pushed” to the ground. Paramedics were subsequently called; however, appellant refused their services and indicated that she had just gone to the emergency room the day before for injuries from her previous accident. Ms. Johnson’s statement also indicated that appellant told the paramedics that her “left side” was hurting and that she was pushed in the chest by Ms. Johnson.

In a January 19, 2000 letter, the Office advised appellant of the additional factual and medical evidence needed to establish her claim and requested that she submit such. Appellant was advised that submitting a rationalized statement from her physician addressing any causal relationship between her claimed injury and factors of her federal employment was crucial. Appellant was allotted 30 days to submit the requested evidence.

In a February 18, 2000 report, Dr. Robert A. Greendale, a Board-certified psychiatrist and neurologist, indicated that he had added “fell down escalator” to his CA-20 medical report.<sup>3</sup> Dr. Greendale noted that appellant’s original diagnosis was post-traumatic stress disorder when he first saw appellant on June 4, 1999. Dr. Greendale noted that he recently added an additional diagnosis, namely delusional disorder. He noted that the original diagnosis was substantiated by the fact that appellant was having dreams where she relived falling down the escalator and in addition, was being harassed by her supervisor. Dr. Greendale indicated that it appeared that “all of her psychiatric symptoms that she currently is suffering from had its onset as a result of the episode that occurred on February 8, 1999, where she fell down the escalator.”

On January 26, 2000 the Office received additional information from appellant. In an undated statement, appellant indicated that Ms. Johnson requested a statement regarding her accident.<sup>4</sup> Appellant stated that she needed a CA-1 and would turn in the statement with the CA-1. She then stated that Ms. Johnson requested that Ms. Billingsley obtain the form. Appellant indicated that she signed and dated the papers and was attempting to ask the nurse for a copy when Ms. Johnson got up and snatched the paper from her and pushed her in the chest causing her to fall. Appellant also stated that Ms. Johnson said, “it don’t work that way, baby.”

In a February 16, 1999 preliminary statement to the postal police, which was received by the Office on January 16, 2000, Ms. Johnson stated:

“[Appellant] reported for a fitness-for-duty examination on February 16, 1999. She wrote out statement at my request based on a request by the investigation being done on her case pertaining to an accident of February 8, 1999. [Appellant] stated that she wanted a Form CA-1 before she wrote a statement. I sent the supervisor whom I had brought with me, Francine Billingsley, to get the

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<sup>3</sup> The record does not contain a CA-20.

<sup>4</sup> On February 8, 1999 appellant allegedly fell down the escalator and was in the process of filling out the paperwork regarding that incident.

requested form. [Appellant] continued writing out the statement and stated 'I want a copy of this.' I assured her she would get one. When we finished, [appellant] snatched the statement from my hand and stood to walk down the hall. I grabbed the form back and she stopped walking, looked around, (there was no one in sight) and fell to the floor screaming. She then stated that I pushed her to the floor in the chest."

In a February 16, 1999 preliminary statement to the postal police, which was received by the Office on January 18, 2000, appellant stated:

"Lynn Johnson has been harassing me. I was to report to medical unit February 16, 1999. Lynn Johnson came in medical unit while I was there. (She did not have to be there nor was she supposed to be there.) Lynn Johnson came in first that I saw her at about 8:45 a.m. telling me to come downstairs. I told her that I did not feel like it, she told me she would take disciplinary action. (I'm off work on medical leave from falling down the escalator on the clock on February 8, 1999). I asked her to mail me or bring me a CA-1 for the accident of February 8, 1999 [and] she said if I don't come to get one downstairs, I wouldn't get one. She left [and] I went in to see the nurse. When I came out the nurse's room, the nurse told me Lynn Johnson was there to see me again. Lynn Johnson was sitting on the bench in the room and told me she needed a statement from me from the accident. I told her I need a CA-1 and I would turn in the statement with the CA-1. She told Francine to get me a CA-1. (She should have brought the CA-1 with her when she returned to the medical unit)."

Appellant also added that Ms. Johnson told her to write the information on the paper and was "harassing" her. Additionally, appellant noted that after she signed and dated the paper, she was getting up to ask the nurse to copy it for her when "Lynn Johnson got up and snatched the paper from her and pushed me in the chest causing her to fall." Appellant also stated that Ms. Johnson said, "it don't work that way baby." She also stated that Ms. Johnson's feet hit her in the leg as she was laying there on the floor.

In a January 21, 2000 letter, which was received by the Office on February 18, 2000, appellant repeated the information contained in her previous letter.<sup>5</sup> She repeated her statement that Ms. Johnson "snatched the papers out of my hand and knocked me in my chest knocking me to the floor ... 'falling on my back.'" Appellant also stated that she was "very, very upset, sad, feeling like nothing and nervous." She also stated that the postal police took a statement from her on the date of the injury. Again, appellant stated that since the date of the injury, she was "very, very, very, very, sad, nervous, hurt, depressed, stressed and feeling like nothing, worthless and sad, crying in pain and feeling like I didn't want to live." She also stated that she cried a lot thinking about the accident and was in pain and hurting a lot."

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<sup>5</sup> It appears this letter was written first; however, there are two date stamps of January 21, 2000 and a handwritten stamp of February 18, 2000.

In a February 25, 2000 decision, the Office found that the evidence was not sufficient to establish that appellant sustained an injury at the time, place and in the manner alleged.

The Board finds that the evidence fails to establish that appellant sustained an emotional condition in the performance of duty.

The Federal Employees' Compensation Act<sup>6</sup> provides for payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.<sup>7</sup> The phrase "sustained while in the performance of duty" is regarded as the equivalent of the coverage formula commonly found in workers' compensation laws, namely, "arising out of and in the course employment."<sup>8</sup> "Arising in the course of employment" related to the elements of time, place and work activity. To arise in the course of employment, an injury must occur at a time when the employee may reasonably be said to be engaged in her master's business, at a place where she may reasonably be expected to be in connection with her employment and while she was reasonably fulfilling the duties of her employment or engaged in doing something incidental thereto. The employee must also establish an injury "arising out of the employment." To arise out of employment, the injury must have a causal connection to the employment, either by precipitation, aggravation, or acceleration.<sup>9</sup>

As the Board observed in the case of *Lillian Cutler*,<sup>10</sup> however, workers' compensation law does not cover each and every illness that is somehow related to the employment. When an employee experiences emotional stress in carrying out her employment duties, or has fear and anxiety regarding her ability to carry out her duties and the medical evidence establishes that the disability resulted from her emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability resulted from her emotional reaction to a special assignment or requirement imposed by the employing establishment or nature of her work. By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation law because they are not found to have arisen out of employment, such as when disability results from an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.

An employees emotional reaction to an administrative or personnel matter is generally not covered under the Act because it is not considered to arise out of and in the course of employment. But error or abuse by the employing establishment in an administrative or personnel matter or evidence that the employing establishment acted unreasonably in an

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<sup>6</sup> 5 U.S.C. §§ 8101-8193.

<sup>7</sup> *Id.* at § 8102(a).

<sup>8</sup> This construction makes the statute actively effective in those situations generally recognized as properly within the scope of workers' compensation law. *Bernard D. Blum*, 1 ECAB 1 (1947).

<sup>9</sup> See *Eugene G. Chin*, 39 ECAB 598 (1988); *Clayton Varner*, 37 ECAB 248 (1985); *Thelma B. Barenkamp (Joseph L. Barenkamp)*, 5 ECAB 228 (1952).

<sup>10</sup> 28 ECAB 125 (1976).

administrative or personnel matter, may afford coverage.<sup>11</sup> In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.<sup>12</sup>

In this case, the evidence of record confirms that in the course of filling out the paperwork regarding appellant's February 8, 1999 work injury, which was an administrative matter, the paper was either snatched or taken from her hand at some point during the incident by her supervisor. There is no evidence to the contrary regarding the snatching or taking of paper from her hand. In the case of *Kimber A. Stokke*, the Board found that the grabbing of a pen from appellant's hand was a claimed factor that arose in the scope of employment.<sup>13</sup> The Board, therefore, finds that the incident occurred as alleged, with respect to the grabbing of the paper from appellant's hand. The evidence of record, however, does not support appellant's allegations that she was pushed to the ground by her supervisor or kicked.

Having established a compensable factor of employment, the question becomes a medical one: did this incident cause or contribute to appellant's emotional condition. In his October 10, 1999 report, Dr. Greendale discussed generally fall down the escalator and harassment by appellant's supervisor. He stated that appellant had post-traumatic stress disorder and a delusional disorder, which resulted from her February 8, 1999 fall, down an escalator. Dr. Greendale was not specific in his history nor did he discuss the incident where the paper was grabbed or taken from appellant's hand by her supervisor. Further, Dr. Greendale offered no medical rationale explaining the nature of the relationship between appellant's emotional symptoms and the one factor accepted in this case. Appellant has not established a causal relationship between the employment incident and her emotional condition, therefore, she has not met her burden of proof to establish that she sustained an emotional condition in the performance of duty.

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<sup>11</sup> *Margreate Lublin*, 44 ECAB 945 (1993).

<sup>12</sup> *Martha L. Watson*, 46 ECAB 407 (1995).

<sup>13</sup> *Kimber A. Stokke*, 48 ECAB 510 (1997); *see also Shirley A. Temple*, 48 ECAB 404 (1997) (where a supervisor removed a pen from the claimant's hand, the question became whether this employment incident caused a personal injury).

The February 25, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed as modified.

Dated, Washington, DC  
May 4, 2001

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member