

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BARBARA L. WILLIAMS and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Gulfport, MS

*Docket No. 00-1892; Submitted on the Record;
Issued May 17, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a panic attack on May 21, 1998 while in the performance of duty.

On August 3, 1998 appellant, then a 42-year-old revenue officer, filed a claim for compensation, claiming that she had a panic attack after a discussion of a leave restriction letter with her supervisor and of the assignment of people who would be her supervisors. Appellant stopped working at that time and did not return.

In an October 27, 1998 decision, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she had not established an injury in the performance of duty. In a December 3, 1998 letter, appellant requested reconsideration. In a January 5, 1999 decision, the Office denied appellant's claim on the grounds that she had not established that the claimed injury occurred in the performance of duty.

In a January 31, 1999 decision, appellant again requested reconsideration. In a March 9, 1999 merit decision, the Office denied appellant's request for modification of its prior decisions.

In an October 24, 1999 letter, appellant made a third request for reconsideration. In a November 5, 1999 merit decision, the Office denied appellant's request for modification of its prior decisions. In a January 6, 2000 letter, appellant made another request for reconsideration. In an April 24, 2000 decision, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted in support of the request was cumulative and therefore insufficient to warrant review of its prior decisions.

The Board finds that appellant's panic attack on May 21, 1998 was not sustained in the performance of duty.

Workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. There are distinctions as to the type of situation

giving rise to an emotional condition which will be covered under the Federal Employees' Compensation Act. Where the disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within the coverage of the 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.

Disabling conditions resulting from an employee's feeling of job insecurity or the desire for a different job do not constitute personal injury sustained while in the performance of duty within the meaning of the Act.¹ When the evidence demonstrates feelings of job insecurity and nothing more, coverage will not be afforded because such feelings are not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of the Act.² In these cases the feelings are considered to be self-generated by the employee as they arise in situations not related to his assigned duties. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse cannot be considered self-generated by the employee but caused by the employing establishment.³

Appellant was given a May 11, 1998 memorandum placing her on leave restrictions. The supervisor noted that since January 19, 1997 appellant has used 103 hours of annual leave, 7 hours of advanced sick leave, 7 hours of credit time, 829 hours absent without leave, 997 hours of leave without pay (LWOP) and 45 days of continuation of pay. He indicated that, since appellant had returned to work on February 2, 1998, she had accumulated and used 56 hours of annual leave and an additional 53 hours of leave without pay.

Appellant was directed to submit a doctor's statement for each absence from work which she desired to charge to sick leave. She was instructed to request all annual leave in advance. Appellant was informed that LWOP would not be authorized except where the leave was substantiated for medical reasons as supported by medical documentation.

Appellant's group manager indicated that appellant refused to sign the leave restriction on the date it was issued. She requested additional leave between May 11 and 21, 1998. The manager stated that, when appellant returned to work on May 21, 1998 after a two-day absence, her use of recent leave was discussed and her supervisor again requested that she sign the leave restriction. Appellant again refused and left the employing establishment shortly thereafter, stating that she was having a panic attack.

Appellant stated in an October 21, 1998 letter that, on May 21, 1998, she discussed her leave restrictions with her supervisor, her evaluation that was to occur in the near future and a

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

² *Artice Dotson*, 41 ECAB 754 (1990); *Allen C. Godfrey*, 37 ECAB 334 (1986); *Buck Green*, 37 ECAB 374 (1985); *Peter Sammarco*, 35 ECAB 631 (1984); *Dario G. Gonzalez*, 33 ECAB 119 (1982); *Raymond S. Cordova*, 32 ECAB 1005 (1981); *John Robert Wilson*, 30 ECAB 384 (1979).

³ *Thomas D. McEuen*, 41 ECAB 387 (1990) *reaff'd on recon.*, 42 ECAB 566 (1991).

reduction to doing field calls five hours a day instead of eight hours a day. She indicated that after the conversation, she began feeling dizzy and ill and asked permission to leave for the day.

In a January 31, 1999 letter, appellant stated that she became upset on May 21, 1998 because she was told that she would have to begin going out on full-field days beginning the next week. She was also informed that a person against whom she had previously filed a complaint would do her evaluation. In an October 24, 1999 letter, appellant stated that on May 21, 1998 she reacted when she was informed that she would have to work full-field days beginning the following Monday instead of two weeks after that. She commented that she began hearing voices in her head. Appellant therefore told her supervisor that she had to go home. She argued that, since she was having anxiety regarding her ability to carry out her duties, her claim was compensable.

Appellant cited three reasons for her May 21, 1998 panic attack, the leave restrictions, the instruction to return to full-field duties the following week and the knowledge that her evaluation would be done by a person against whom she had filed a complaint. Matters concerning the use of leave are an administrative function of the employing establishment and therefore do not constitute a compensable factor of employment.⁴

Appellant's concern over who would perform her performance evaluation was also an administrative function of the employing establishment and therefore not a compensable factor of employment.⁵ She did not establish that the leave restrictions or the issues related to her evaluation constituted an error or abuse by the employing establishment. Appellant, therefore, did not establish that these matters constituted a compensable factor of employment in her case.

Appellant's concern over her return to full-field duties in the near future constituted a fear of future injury, not anxiety over her current work performance. The fear of a future injury is not a compensable factor of employment.⁶ Appellant, therefore, has not established that she sustained a compensable injury in the performance of duty.

⁴ *Dinna M. Ramirez*, 48 ECAB 308 (1997).

⁵ *O. Paul Gregg*, 46 ECAB 624 (1995).

⁶ *Paul A. Clarke*, 43 ECAB 940 (1992).

The decisions of the Office of Workers' Compensation Programs, dated April 20, 2000 and November 5, 1999, are hereby affirmed.

Dated, Washington, DC
May 17, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member