

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA D. WILLIAMS and DEPARTMENT OF THE NAVY,
NORFOLK NAVAL SHIPYARD, Portsmouth, VA

*Docket No. 00-1038; Submitted on the Record;
Issued October 16, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an emotional condition causally related to compensable work factors.

On July 14, 1997 appellant filed an occupational disease claim alleging that she sustained an emotional condition causally related to her federal employment. Appellant indicated that on June 26, 1997 she had a verbal encounter with a coworker. In a statement dated October 6, 1997, appellant alleged that the employing establishment and the Office of Workers' Compensation Programs had mishandled her prior claims. She also noted that she still had residual pain from carpal tunnel syndrome and thoracic outlet syndrome, and that she was treated differently at work since filing a prior claim in 1994.

By decision dated December 12, 1997, the Office denied the claim, finding that no compensable factors of employment had been established. In a decision dated December 31, 1998, an Office hearing representative affirmed the prior decision. The hearing representative found that appellant established that in March 1997 she was assigned to a building that was drafty and cold. However, he also found that the medical evidence did not establish an emotional condition causally related to an accepted employment-related physical injury.

The Board finds that appellant has not established an emotional condition causally related to compensable work factors.

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.¹ 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

¹ Pamela R. Rice, 38 ECAB 838 (1987).

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.²

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 workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where 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.³

Appellant has alleged that her prior compensation claims were mishandled by the Office and the employing establishment. The processing of a claim for workers' compensation does not arise in the performance of duty because it does not relate to the employee's day-to-day or specially assigned duties.⁴

Appellant has generally alleged error by the employing establishment with regard to her prior claims, culminating in a verbal confrontation with an injury compensation administrator on June 26, 1997. An administrative or personnel matter may be a factor of employment where the evidence discloses error or abuse by the employing establishment;⁵ appellant must, however, support an allegation of error with probative and reliable evidence.⁶

In this case the record does not contain any probative evidence of error by the employing establishment. The injury compensation administrator stated that appellant was confrontational on June 26, 1997 and used profanity in a raised voice. The witness statements provided by appellant indicated only that raised voices were not heard at the time of the incident, but in no way support an allegation of error by the employing establishment.

Appellant has also alleged that she was treated differently at work since she filed a compensation claim in 1994, and at times was ridiculed. She has not provided any reliable evidence of error or abuse by the employing establishment with respect to a specific incident or personnel action in this case.

² See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

³ *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *O. Paul Gregg*, 46 ECAB 624 (1995); *Thomas J. Costello*, 43 ECAB 951 (1992).

⁵ See *Michael Thomas Plante*, 44 ECAB 510 (1993); *Kathleen D. Walker*, 42 ECAB 603 (1991).

⁶ See *Peggy Ann Lightfoot*, 48 ECAB 490 (1997).

The hearing representative accepted as a compensable work factor that appellant was assigned to a cold and drafty building in March 1997. It is also noted that appellant has referred to continuing pain from carpal tunnel syndrome and thoracic outlet syndrome.⁷ An accepted employment-related physical injury is a compensable work factor,⁸ and therefore the medical evidence must be considered with respect to causal relationship.

To establish an injury in the performance of duty, appellant must submit probative medical evidence on causal relationship between a diagnosed emotional condition and the compensable work factors. In a report dated June 3, 1998, Dr. Vanessa A. Blowe, a family practitioner, stated that appellant had developed depressive symptoms related to chronic pain and frustrations with the compensation process. As noted above, frustration with the compensation process is not a compensable work factor. Dr. Blowe indicated that appellant had multiple medical problems causing chronic pain but she did not explain any causal relationship between an accepted employment injury and an emotional condition.

In a report dated September 10, 1997, Dr. Lisa Barr, a family practitioner, indicated that appellant had been referred to a pain education program to help her with adjustment issues and psychological distress created by chronic pain. Dr. Barr did not provide a reasoned opinion explaining the relationship between a diagnosed emotional condition and the employment injuries. None of the medical evidence of record contains a reasoned medical opinion, based on a complete background, on a causal relationship between a compensable work factor and a diagnosed emotional condition. The Board accordingly finds that appellant has not met her burden of proof to establish an emotional condition causally related to compensable work factors in this case.

⁷ The record indicates that these conditions were accepted as employment related pursuant to OWCP File No. A25-458330.

⁸ *Clara T. Norga*, 46 ECAB 473 (1995).

The December 31, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
October 16, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member