

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GAIL L. FRIEDL and U.S. POSTAL SERVICE,  
POST OFFICE, Tulsa, OK

*Docket No. 00-2600; Submitted on the Record;  
Issued October 4, 2001*

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DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she developed an emotional condition due to factors of her federal employment.

On May 11, 1999 appellant, a 43-year-old clerk, filed a notice of occupational disease alleging that she developed an emotional condition due to working in a hostile environment, working undercover with postal inspectors, being harassed by her supervisor and being denied help. By decision dated August 30, 1999, the Office of Workers' Compensation Programs denied appellant's claim finding that she failed to establish a compensable factor of employment. Appellant requested an oral hearing on September 25, 1999 and by decision dated June 1, 2000, the hearing representative affirmed the Office's decision.

The Board finds that appellant has failed to meet her burden of proof in establishing that she developed an emotional condition due to factors of her federal employment.

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 concept of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment to hold a particular position.<sup>1</sup>

Appellant attributed her emotional condition to her participation in an investigation by postal inspectors, *i.e.*, working undercover to discover purchasing abuses by her supervisor as requested by postal inspectors, resulting harassment including denial of promotions, denial of training and demeaning discussions, assignment of a carrier to work with her, instructions that she is to supervise other employees, instruction that she is not to speak to his supervisor,

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

requesting that she work with another employee who appellant felt did not do her job and instructing that employee to “shadow” appellant and berating appellant in front of a coworker. She returned to work on June 1, 1999 in a different office and tour. Appellant alleged that the employing establishment planned to do nothing regarding the investigation and that the employing establishment instructed her to return to her regular duty position.

Appellant submitted a witness statement dated March 22, 2000 asserting that appellant was given additional work, required to train lower level employees, had daily conflicts with her supervisor and was treated differently than other employees.

Appellant’s supervisor, Pleas A. Thompson, responded on April 27, 1999 and stated that he had been appellant’s supervisor since March 6, 1999. He stated that appellant was not promoted because she was graded the poorest candidate by four supervisors. Mr. Thompson stated that appellant’s position required a variety of duties and that appellant stated that all she knew how to do was procurement. He alleged that he made appellant a team leader in deference to her job level, rather than selecting an employee with a lesser level. Mr. Thompson stated that appellant went to training and that he instructed her that she should learn all aspects of her job. He stated that he assigned a carrier to help appellant due to her complaints of overwork. Mr. Thompson stated that he asked appellant to give him an opportunity to resolve work-related matters prior to going to his supervisor. His supervisor instructed him not to use a carrier to help appellant and Mr. Thompson assigned another employee to help appellant and to take her breaks and lunch at the same time. This employee was not instructed to shadow appellant. On April 27, 1999 he instructed appellant and her coworker to follow his directives to work together.

The Board notes that appellant attributed her emotional condition to her participation in a investigation by postal inspectors of purchasing practices in her department and by her supervisor. The record establishes that appellant took part in the investigation; however, the postal inspector indicated that appellant volunteered to supply information regarding wrongdoing by her supervisor after a request for a report. There is no evidence that appellant was required to participate in the investigation such that it became a specially assigned task.<sup>2</sup> Generally, investigations are related to the performance of an administrative function of the employer and are not compensable factors of employment unless these are affirmative evidence that the employer either erred or acted abusively in the administration of the matter.<sup>3</sup> Appellant has not established any error by the employing establishment in conducting the investigation. Therefore this is not a compensable factor of employment as there was no evidence of error or abuse on the part of the employing establishment in the conduct of the investigation.

Appellant also attributed her emotional condition to actions of her supervisor such as denial of promotions and training, requests that she become a group leader and that she work with other employees as well as disciplinary action. As a general rule, an employee’s emotional reaction to an administrative or personnel matter is not covered under the Federal Employees’ Compensation Act.<sup>4</sup> But error or abuse by the employing establishment in what would otherwise be an administrative or personnel matter, or evidence that the employing establishment acted

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<sup>2</sup> See *Sammy N. Cash*, 46 ECAB 419, 423-24 (1995).

<sup>3</sup> *Id.*

<sup>4</sup> 5 U.S.C. §§ 8101-8193.

unreasonably in the administration of a personnel matter, may afford coverage. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.<sup>5</sup> Appellant has submitted no evidence that the employing establishment acted unreasonably in denying her promotion, providing training or requests that she fulfill the duties of her grade and job description, therefore she has not established that these incidents are compensable factors of employment

In regard to the allegation of harassment, appellant did not submit any evidence substantiating that the specific incidents of harassment occurred as alleged. 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 of harassment or discrimination are not compensable under the Act. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.<sup>6</sup> Appellant did submit a witness statement that she was treated differently. However her supervisor denied the allegations and stated that appellant was given duties within her position and commiserate with her advanced grade. Therefore the Board finds that appellant has not substantiated harassment as a compensable factors of employment.

As appellant has failed to submit the necessary evidence of error or abuse or harassment, she has failed to meet her burden of proof, and the Office properly denied her claim.

The June 1, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
October 4, 2001

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>5</sup> *Martha L. Watson*, 46 ECAB 407 (1995).

<sup>6</sup> *Alice M. Washington*, 46 ECAB 382 (1994).