

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ARLENE J. SIMPSON and DEPARTMENT OF THE NAVY,  
SUPERVISOR OF SHIPBUILDING, Bath, ME

*Docket No. 01-639; Submitted on the Record;  
Issued February 5, 2002*

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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.

The Board has duly reviewed the case record in the present case and finds that appellant did not meet her burden of proof to establish that she sustained an emotional condition in the performance of duty.

On January 4, 2000 appellant, then a 51-year-old supervisory logistics management specialist, filed a claim alleging that she suffered severe headaches and chest pains caused by stress at work, particularly involving her supervisor, Commander Watson. She stopped work on September 13, 1999. In an October 11, 2000 decision, the Office of Workers' Compensation Programs rejected appellant's claim on the grounds that she failed to establish that her emotional condition was sustained 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 her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>1</sup> 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 her frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

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 employment factors.<sup>3</sup> This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.<sup>4</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.<sup>5</sup> If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.<sup>6</sup>

Appellant alleged that she sustained an emotional condition as a result of a number of employment incidents and conditions involving her supervisor, Commander Watson. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of the Act.

Appellant alleged that Commander Watson made manpower decisions without fully considering the impact on appellant's work group, failed to forward appellant's travel request to the agency travel clerk, asked appellant to submit certain written information by close of business on July 16, 1999, but then did not review her submission until July 21, 1999, used the vacant billet in appellant's group to fill a position elsewhere in his directorate, and reallocated some of appellant's group's extra space to another work group. The Board finds that these allegations relate to administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties and do not fall within the coverage of the Act.<sup>7</sup> Although the handling of leave and travel requests, the assignment of work duties, and the monitoring of activities at work are generally related to the employment, they are administrative functions of the employer and not duties of the employee.<sup>8</sup> However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether

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<sup>3</sup> *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

<sup>4</sup> *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

<sup>5</sup> *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

<sup>6</sup> *Id.*

<sup>7</sup> *See Janet I. Jones*, 47 ECAB 345, 347 (1996), *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

<sup>8</sup> *Id.*

the employing establishment acted reasonably.<sup>9</sup> In response to appellant's allegations, the employing establishment conducted a fact-finding investigation. In the fact-finding memoranda dated January 3 and 10, 2000, however, the fact-finders concluded that the actions of Commander Watson were within his purview as a manager and did not recommend any additional investigation into these matters. The Board has held that an employee's dissatisfaction with perceived poor management or the manner in which a supervisor exercises his or her discretion constitutes frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable under the Act.<sup>10</sup> As appellant provided no evidence supporting error or abuse on the part of Commander Watson with respect to these administrative matters, appellant has not established compensable employment factors under the Act.

Appellant's alleged that Commander Watson's behavior at staff meetings was erratic, that he frequently talked down to people and snubbed them and that, at an October 27, 1999 staff meeting, he was rude to the supervisors present, including appellant, and yelled at them. The Board has recognized the compensability of verbal altercations or abuse in certain circumstances. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under the Act.<sup>11</sup> In the instant case, however, the Board finds that the fact-finding report compiled by the employing establishment supports that during the October 27, 1999 staff meeting Commander Watson's behavior was abusive and it was recommended that he be removed from his leadership position.

In the present case, appellant has established a compensable factor of employment with respect to Commander Watson's verbal abuse on October 27, 1999. However, appellant's burden of proof 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>12</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factor. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>13</sup>

In support of her claim, appellant submitted progress notes dating from January 1999 through February 2000 from Dr. Nancy A. Hasenfus, her treating Board-certified internist. In

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<sup>9</sup> See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

<sup>10</sup> See *Michael Thomas Plante*, 44 ECAB 510, 515 (1993).

<sup>11</sup> See *Mary A. Sisneros*, 46 ECAB 155, 163-64 (1994); *David W. Shirey*, 42 ECAB 783, 795-96 (1991).

<sup>12</sup> See *William P. George*, 43 ECAB 1159, 1168 (1992).

<sup>13</sup> *Id.*

these notes, Dr. Hasenfus noted that appellant complained of chest pains and headaches and related that appellant reported being under a great deal of stress at work, and, in particular, reported having a difficult relationship with her supervisor. In these treatment notes, however, Dr. Hasenfus does not mention any specific incidents which may have contributed to appellant's condition. Appellant also submitted attending physician's reports, Form CA-20, dated December 20, 1999 and February 29, 2000, in which Dr. Hasenfus noted that appellant had a history of chest pain and stress at work, diagnosed atypical chest pain, stress related, and headaches, and indicated by check mark that these conditions were causally related to appellant's employment. The Board has held, however, that a medical report which checks a box on a form report "yes," with regard to whether a condition is employment related, is of diminished probative value without further detail and explanation, and Dr. Hasenfus does not offer any detail as to the specific causes of appellant's stress-related conditions.<sup>14</sup> Appellant also submitted emergency room treatment notes dated November 15, 1999 from Dr. B.L. Gretta, which note that appellant presented complaining of chest pain, anxiety and depression, and further note appellant's assertion that she was under a lot of stress at work. Dr. Gretta diagnosed noncardiac chest pain, but does not otherwise discuss the cause of appellant's condition. Appellant has not submitted a medical report noting with specificity the accepted employment factor, diagnosing a condition attributable to the accepted factor or explaining how and why the physician believed this factor caused appellant's condition. Appellant has failed to meet her burden of proof and the Office properly denied her claim.

The decision of the Office of Workers' Compensation Programs dated October 11, 2000 is hereby affirmed.

Dated, Washington, DC  
February 5, 2002

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member

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<sup>14</sup> *Alberta S. Williamson*, 47 ECAB 569 (1996); *Lester Covington*, 47 ECAB 539 (1996).