

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENISE Y. McCOLLUM and U.S. POSTAL SERVICE,
POST OFFICE, San Carlos, CA

*Docket No. 01-1443; Submitted on the Record;
Issued July 5, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an emotional condition in the performance of duty.

On January 25, 2000 appellant, then a 44-year-old window clerk, filed a claim for an occupational disease for "post-traumatic stress." She stated that on January 15, 2000 she was traumatized by discovering a hangman's noose while collecting leave slips from a box on her supervisor's desk. Appellant also alleged that her supervisor previously made inappropriate demeaning comments, thumped her on the upper arm on several occasions and allowed coworkers to make embarrassing comments to her.

Appellant's supervisor stated that on January 12 or 13, 2000 she joked with the postmaster about a piece of rope he was carrying and that a few minutes later the postmaster set a noose on the table where she was sitting in the smoking room, laughed and walked away. The supervisor stated that she left this noose on top of her desk, that on January 14, 2000 she noticed the noose on top of the box for leave slips, that she did not remove the noose from the box when she removed the forms and that she returned forms and copies that required further action to the box. Appellant's supervisor stated that on January 18, 2000 the postmaster asked her about the noose, as he had received a call from appellant, who was very upset and that she tried to explain to her that the noose was a joke between herself and the postmaster.

By decision dated April 10, 2000, the Office of Workers' Compensation Programs found that there was no evidence of harassment and that appellant's reaction to the noose was self-generated.

By letter dated May 23, 2000, appellant requested reconsideration and submitted additional medical evidence.

By decision dated June 29, 2000, the Office refused to modify its prior decision, finding that the evidence demonstrated that the noose was a joke between the postmaster and appellant's supervisor and that it did not constitute harassment.

The Board finds that appellant has not established that she sustained an emotional condition 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 his or her 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. 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 or her frustration from not being permitted to work in a particular environment or to hold a particular position.¹ Where appellant alleges compensable factors of employment, he or she must substantiate such allegations with probative and reliable evidence.²

Physical contact by a coworker or supervisor may give rise to a compensable work factor, if the incident occurred as alleged.³ Appellant, however, has not submitted any evidence to substantiate her allegation that her supervisor thumped her on the upper arm on several occasions, nor has she specified when these incidents allegedly occurred. Appellant's allegations that her supervisor made inappropriate demeaning remarks and allowed coworkers to make embarrassing comments to her are general in nature and do not refer to any specific incidents.⁴ The one specific incident cited by appellant was when her supervisor told her on June 20, 1994 that she was full of "piss and vinegar," but appellant acknowledged that this comment was "due to the fact that I did have an attitude after viewing the schedule." Although the Board has recognized the compensability of verbal abuse in certain circumstances, this does not imply that every statement uttered in the workplace will give rise to coverage under the Act.⁵ Appellant has not shown how this comment, in the context in which it was made, would rise to the level of verbal abuse or otherwise fall within the coverage of the Act.⁶

Appellant has established that the January 15, 2000 incident occurred as alleged. She found a noose in the box for leave slips on her supervisor's desk. This was corroborated by the supervisor, who stated that the noose was a joke between herself and the postmaster. The evidence of record does not support a racially charged work environment or the placement of the

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

² *Joel Parker, Sr.*, 43 ECAB 220 (1991).

³ *Martha L. Watson*, 46 ECAB 407 (1995).

⁴ *See Jose L. Gonzalez-Garced*, 46 ECAB 559 (1995); *Richard L. Dube*, 42 ECAB 916 (1991).

⁵ *Harriet J. Landry*, 47 ECAB 543 (1996).

⁶ *See Alfred Arts*, 45 ECAB 530 (1994).

noose at a place that appellant would be forced to encounter it. Instead, it suggests an overly sensitive employee who observed something at another's workstation. Under these circumstances, the Board considers appellant's reaction self-generated and not compensable.

The June 29, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
July 5, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member