

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHNNIE L. BROWN and U.S. POSTAL SERVICE,
POST OFFICE, Oakland, CA

*Docket No. 01-1468; Submitted on the Record;
Issued May 24, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

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.

Appellant, a 62-year-old supervisor, filed a notice of occupational disease on August 11, 2000 alleging that she developed stress due to her employment. The Office of Workers' Compensation Programs denied her claim by decision dated February 6, 2001 finding that she failed to establish a compensable factor of employment.

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.¹

In this case, appellant provided a detailed statement of the events and incidents to which she attributed her emotional condition. She stated that she was required to work with less than the appropriate number of employees; that she did not receive her evaluations in a timely manner; that her supervisor had meetings with her employee's to discuss appellant; that she was not provided with a telephone on her desk while other supervisors were; that her leave requests

¹ *Lillian Cutler*, 28 ECAB 125, 129-131 (1976).

were denied; that appellant was reassigned; and that she was ordered to violate employing establishment rules and regulations.

Appellant's supervisor Millie Watson responded to appellant's allegations and stated that appellant's employees complained about her manner and that she held a meeting to address the concerns. Ms. Watson stated that she treated supervisors with different positions appropriately and that appellant was not required to perform clerical functions. She denied harassing or discriminating against appellant.

Appellant's allegations address administrative or personnel matters such as leave denials² and assignments. As a general rule, an employee's emotional reaction to an administrative or personnel matter is not covered under the Federal Employees' Compensation Act. 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 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.³ Appellant has submitted no evidence in support of her allegations that the employing establishment acted unreasonably in administering personnel matters.

Appellant also alleged that her supervisor yelled at her in front of others. Edna Gray responded to this allegation and stated that she had not yelled but that she had to reprimand appellant for her tone. Appellant has not established error or abuse by her supervisor as she submitted no evidence supporting this allegation.

Appellant also attributed her emotional condition to additional actions by her supervisors. Clytee Johnson instructed appellant not to sit at her desk and during appellant's absence her desk was removed; appellant stated that she was required to input data into a computer when other supervisors were allowed to use clerks for this task; and appellant alleged that Ms. Gray discriminated against her by requiring appellant to allow others to use her equipment; and by requiring appellant to work sacks of mail. Appellant alleged that she was overworked.

Ms. Gray responded to appellant's allegations and asserted that appellant's employees were directed based on the requirements of the employing establishment. She stated that appellant was not forced to work short or meet unreasonable goals. Ms. Gray stated that appellant was instructed to give another piece of mail moving equipment to another unit based on the needs of the employing establishment and that appellant retained the necessary equipment. She stated that appellant's operation required that she receive mail in sacks. Ms. Gray explained that appellant was required to work mail up to certain color codes to aid other sections. As appellant has not submitted the necessary evidence to establish error or abuse in these actions of the employing establishment, she has not established that these actions constitute a compensable factor of employment.

² *Elizabeth Pinero*, 46 ECAB 123, 130 (1994).

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

Appellant alleged that she was discriminated against based on the actions of her supervisors. 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.⁴ Appellant's supervisors have denied her allegations and appellant has submitted no evidence to support that she was treated differently. Therefore, she has failed to establish this factor of employment.

Although appellant attributed her emotional condition to actions by the employing establishment, she failed to submit any evidence that the alleged actions occurred. For this reason, the Board finds that appellant has failed to establish a compensable factor of employment and the Office properly denied her claim for an emotional condition.

The February 6, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 24, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁴ *Alice M. Washington*, 46 ECAB 382 (1994).