

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARIA J. JOHANSEN and DEPARTMENT OF THE ARMY,
U.S. MILITARY ACADEMY, West Point, NY

*Docket No. 01-2153; Submitted on the Record;
Issued May 1, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
MICHAEL E. GROOM

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

On August 2, 2000 appellant, a 58-year-old beautician, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she sustained an emotional condition in the performance of duty. She described the nature of her condition as stress caused by the pressure of doing barber work. Appellant further explained that, while she was originally hired as a beautician, the policy for cadet cuts changed in November 1999, thus giving rise to the need for beauticians to cut hair in the barbershop.

In a statement dated June 16, 2000, appellant indicated that she previously experienced depression, anxiety and paranoia during 1990 through 1995. She stated that she received medical treatment for her condition beginning in 1994 and subsequently discontinued treatment and medication in 1995. Since 1995 appellant admittedly was "fully functioning in [her] job and personal life." However, in October 1999 she began to experience the same symptoms she had previously experienced in 1994 "when [she] was informed that [she] would have to work as a Barber/Beautician." Appellant stated that she was told that if she did not work as a Barber/Beautician she would lose her job. Appellant also indicated that she had been working in a light-duty status since October 1999, but the assignment had ended and she was expected to resume her full duties. After being informed that she was required to resume her full duties, appellant stated her symptoms worsened. She also indicated that she knew she could not perform her expected duties without medical dependency.

After further development of the record, the Office of Workers' Compensation Programs issued a decision on November 20, 2000 denying appellant's claim for compensation. The Office found that appellant failed to establish that her claimed emotional condition arose in the performance of duty.

Appellant requested reconsideration on March 27, 2001. The Office reviewed the claim on the merits and in a decision dated June 29, 2001, denied modification of the prior decision.

The Board finds that appellant failed to establish that she sustained an emotional condition in the performance of duty.

In order to establish that she sustained an emotional condition causally related to factors of her federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that her emotional condition or psychiatric disorder is causally related to the identified compensable employment factors.¹

Workers' compensation law does not apply to each and every injury or illness that is somehow related to one's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless, does not come within the purview 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 deemed 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 or hold a particular position.² Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting her allegations with probative and reliable evidence.³

In the instant case, appellant attributed her claimed emotional condition to the prospect of having to perform the duties of a barber. Additionally, appellant expressed concern over the possibility of losing her job for failing to perform all of her expected duties. Neither of appellant's stated concerns represent compensable employment factors. The Board has held that an emotional reaction to situations in which an employee is trying to meet his or her position requirements is compensable.⁴

Appellant did not perform the duties of a barber on or after October 1999. Although there is evidence in the record that she purportedly experienced an allergic reaction to cutting dry hair in 1992 and that she performed some barbering duties for approximately three weeks in the summer of 1994, appellant did not relate her current condition to these experiences. Rather, she attributed her condition to the prospect of having to work as a barber on or after October 1999.⁵

¹ See *Kathleen D. Walker*, 42 ECAB 603 (1991).

² *Lillian Cutler*, 28 ECAB 125 (1976).

³ *Ruthie M. Evans*, 41 ECAB 416 (1990).

⁴ See *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

⁵ The employing establishment's efforts to have appellant work in the barber shop date back to 1994. The record indicates that appellant's job title was changed to Barber/Beautician several years prior to the filing of her present claim.

Appellant stated that she was fine until October 1999, when she was advised that she would have to perform the additional duties of a barber. There is no indication from the record that appellant actually engaged in such duties on or after October 1999. In fact, she stated that she was placed on light-duty after October 1999. Her counsel argued that her brief prior experience as a barber in 1994 should suffice. However, as noted, appellant did not attribute her condition on or after October 1999 to employment duties required in 1994. Her alleged allergic reaction to cutting dry hair in 1992 and her prior psychiatric treatment in 1994 are not the basis of the instant claim. Based upon her own allegations, appellant's current emotional condition arose after October 1999 only after she was advised that she would have to work as a barber. There is no evidence that appellant undertook the duties of a barber after October 1999 when she was advised that she would be expected to do so. Therefore, appellant has failed to establish that her claimed emotional condition arose as a result of her efforts to meet her position requirements.

While appellant preferred working solely as a beautician, an employee's frustration from not being permitted to work in a particular environment is not compensable.⁶ Additionally, although appellant may have been concerned over the prospect of losing her position, job insecurity is not a compensable factor of employment.⁷ Consequently, she has failed to identify a compensable employment factor as a cause for her claimed emotional condition. Unless appellant establishes a compensable employment factor, it is unnecessary to address the medical evidence of record.⁸ Accordingly, the Office properly denied her claim.

The June 29, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 1, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Michael E. Groom
Alternate Member

⁶ *Id.*

⁷ *See Artice Dotson*, 42 ECAB 754, 758 (1990); *Allen C. Godfrey*, 37 ECAB 334, 337-38 (1986).

⁸ *Garry M. Carlo*, 47 ECAB 299, 305 (1996).