

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DEBORA L. HANNA and U.S. POSTAL SERVICE,  
POST OFFICE, Port Orchard, WA

*Docket No. 03-555; Submitted on the Record;  
Issued April 23, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant sustained an emotional condition in the performance of her federal duties.

On August 20, 2002 appellant, then a 44-year-old rural letter carrier, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she became extremely upset and sustained chest pains and a headache after her personal calendar was removed from her work case. In support of her claim, appellant submitted an August 19, 2002 medical note signed by Dr. Devan Vora, a cardiologist, who said that appellant could not return to work until August 26, 2002.

In a September 17, 2002 letter, the Office requested more information. In a response, appellant indicated that she started having chest pains a few hours after discovering that her calendar was missing. In an October 1, 2002 medical note, Dr. William J. Stump, a Board-certified neurologist, indicated that appellant should remain off work until a pending psychological evaluation was complete.

In an undated letter received on October 2, 2002, Steve Jorgenson, the supervisor of customer service, noted that employees were allowed to hang personal calendars on postal equipment provided that they were not offensive and did not interfere with work. Appellant was told to remove her calendar because it was offensive. Appellant had written obscene language on the calendar in reference to a conversation she had with a coworker. Mr. Jorgenson took the calendar down and suggested that appellant keep it in her locker, car or take it home. When appellant put the calendar back up a week later with the offensive language covered by a "post it," Jorgenson removed the calendar. Appellant was issued a letter of warning for failure to follow instructions.

In an October 17, 2002 medical note, Dr. Richard Gilbert, a specialist in family medicine, wrote that appellant should not return to work until October 27, 2002.

In a November 26, 2002 decision, the Office denied appellant's claim finding that the incident occurred as alleged but the medical evidence did not provide a diagnosis of a medical condition causally related to that condition.

The Board finds that appellant has not met her burden of proof to establish that she sustained an emotional condition in the performance of her federal duties.

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>

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>

In the present case, appellant alleged that she sustained an emotional condition as a result of her calendar being removed from her work case. Her supervisor noted that he removed the

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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).

<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.*

calendar because it contained offensive language and directed appellant to keep it in a private area. The record reflects that appellant disregarded her supervisor's instructions and, during the following week, put the calendar back up. Thereafter, she was disciplined for failure to follow instructions.

Regarding appellant's allegations that the employing establishment engaged in improper disciplinary actions or unreasonably monitored her activities at work, 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 disciplinary actions 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 the employing establishment acted reasonably.<sup>9</sup> However, appellant did not submit sufficient evidence to establish that the employing establishment committed error or abuse with respect to removing the calendar or in disciplining appellant for failure to follow instructions. Thus, appellant has not established a compensable employment factor under the Act with respect to administrative matters.

For the foregoing reasons, the Board finds that appellant has not established any compensable employment factors under the Act. She has not met her burden of proof in establishing that she sustained an emotional condition in the performance of duty.<sup>10</sup>

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<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.*

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

<sup>10</sup> As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; see *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

The November 26, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed as modified.

Dated, Washington, DC  
April 23, 2003

Alec J. Koromilas  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member