

Appellant alleged that she was overworked and that she felt that her supervisors placed unachievable goals on her. She stated that her requests for more manpower, assistance and support were denied as the department was already overstaffed. Appellant related that when she would question the store director, Catherine A. Mason, on how to accomplish certain tasks, she never got a direct answer and felt as though Ms. Mason was trying to deliberately confuse her or did not know the answer. Appellant stated that she felt as if she was working alone to accomplish all of the requirements of her job and that a team did not exist because her supervisors refused to work as a team with her. She stated that this caused poor morale in the commissary.

Appellant described four incidents upon which she alleged management wrongly assigned responsibility to her. One incident concerned a rotation and schedule change, which appellant asserted was supposed to be a management decision but the employees were told that it was her idea. Appellant asserted that she was not supported by her supervisors and noted that the rotation and schedule change caused a lot of animosity toward her in her department and confirmed a feeling amongst the employees of mistrust and contempt. She stated that she felt isolated because of her supervisors and this caused an increase in her anxiety.

Appellant also claimed that she was blamed for the loss of an estimated 10 thousand dollars in products due to a refrigeration system going down during a holiday and that, in a separate incident, she was blamed for ordering too much frozen food. She further alleged that she was called in on a Saturday, her day off, to complete a display package that had been given to someone else to complete. Appellant stated that she completed the display package, went home, and was called in the following day to do it over because Ms. Mason, the store director, did not like it. Appellant stated that she went to her office and cried.

Appellant has further alleged that she was passed over on a mandatory training course, that she was subject to retaliation and/or additional malice treatment once she began to request alternative leave status and that her requests for advance sick leave and requests for taking leave under the Family Medical Leave Act were denied. She also stated that she was sent a resignation letter, which caused her additional stress.

The employing establishment refuted appellant's allegations. Appellant's supervisors, Conney Sailes, the store administrator, and Ms. Mason, the store director, advised that appellant, as a department manager, failed to complete the responsibilities of a grocery department manager. The store director, Ms. Mason, advised that the instructions given to appellant were to bring the department into compliance with DECA policies, procedures and directives and, when the normal day-to-day routine duties of the department were not being accomplished, appellant was sent "to do lists" with suspense dates to assist her in organizing and prioritizing the normal duties and responsibilities of her job. Ms. Mason stated that appellant's department was allocated a sufficient number of people to accomplish the work and noted that the work was being performed efficiently, without additional staff, in appellant's absence. She advised that the grocery department had eight personnel, including appellant, and while some limitations with the store workers existed, if appellant used her manpower effectively, she could complete the work. She stated that, as a department manager, appellant had the flexibility to get assistance from other departments if additional help was needed and noted that appellant was provided help with processing salvage, shelf label maintenance, sanitation and stocking requirements and that she

had helped appellant plan the displays until the end of December. Ms. Mason stated that “there was never an intention to ‘deliberately confuse’ appellant and noted that this comment was an indication of her lack of experience.” She related that part of her management style would be to ask appellant what she thought of the situation/question before giving her opinion or benefit of previous experience on the matter.

Ms. Mason also refuted appellant’s allegations in the four incidents she described. She stated that appellant was not blamed for either the loss in products due to a refrigeration system going down or for the purchase order concerning too much frozen food. She related that in the documentation required to report the loss in products due to the refrigeration system going down, there was no negligence or willful misconduct noted on the part of the staff contributing to the loss. With regard to the purchase order concerning too much frozen food, Ms. Mason related that she had sent an email message to both appellant and Mr. Sailes concerning the purchase order and that no one was singled out. With regard to the rotation and schedule change plan, Ms. Mason stated that, at appellant’s request, she had helped appellant plan the work assignments of her employees so all appellant had to do was enforce it. Ms. Mason indicated that when appellant presented the plan to her employees, she had looked to her for the answers to the employee’s questions pertaining to the plan. She stated that it was imperative that the employees understood that appellant was the manager of the grocery department and that appellant’s constant looking at her to answer the questions undermined the very message they were trying to send. She further indicated that the display package program was appellant’s responsibility and that it was her overall responsibility to see that they were accomplished. She also stated that appellant had reported to work that Saturday as previously planned to fill in for one of her employees on leave.

Ms. Mason further stated that appellant seemed to have difficulty telling employees what to do. She attributed part of the morale problem to appellant’s lack of control and unwillingness to carry out her managerial responsibilities. She stated that appellant’s failure to ensure everyone was following the rules contributed to the feeling that some employees were “getting away with it.” Additionally, appellant’s failure to require subordinate employees to perform their assigned duties and responsibilities created an imbalance in the workload and resulted in tasks not being accomplished.

The employing establishment further noted that appellant was nominated to attend several courses, but scheduling conflicts or appellant’s unavailability prevented attendance at the course. The employing establishment advised that appellant’s failure to attend did not impact her operational capability due to the nature of the course.

By decision dated September 12, 2002, the Office denied appellant’s claim on the grounds that the evidence of record failed to establish that she sustained an emotional condition in the performance of duty.

LEGAL PRECEDENT

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 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 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 or to 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

ANALYSIS

Appellant has alleged that she was overworked as upper management gave her additional duties and projects/tasks in addition to the daily requirements of her job. She related that she felt that her supervisors placed unachievable goals on her and her requests for more manpower, assistance and support were denied. The Board has held that overwork may be a compensable factor of employment.⁴ Appellant has not submitted any evidence to corroborate her allegation that she was overworked or that there was not enough personnel to complete her job. The evidence of record, as reflected by the statements of Ms. Mason, the store director, indicate that appellant was failing to perform her responsibilities as a grocery department manager and that upper management was attempting to help accomplish such responsibilities by providing appellant with "to do lists," and offering assistance in management plans and in the daily operations of the grocery department. The record further reflects that appellant's department was adequately staffed and that she had the flexibility to get assistance from other departments if additional help was required. Appellant has, therefore, failed to substantiate this compensable factor of employment.

Appellant's remaining allegations fall into the realm of administrative matters, specifically those of assignment of work duties, poor morale in the workplace, training and leave. As a general rule, an employee's emotional reaction to an administrative or personnel matter is not covered under the 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

¹ See *Kathleen D. Walker*, 42 ECAB 603 (1991). Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

² *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

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

⁴ *Robert W. Wisenberger*, 47 ECAB 406, 408 (1996).

coverage. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.⁵

Although 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.⁶ Disagreement with or dislike of a management action or with the manner in which a supervisor exercises his supervisory discretion is not compensable, and an emotional reaction due to such disagreement or dislike is considered self-generated and is not compensable.⁷ The Board has held that an employee's dissatisfaction with perceived poor management 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.⁸

Appellant claimed that she was called in on a Saturday, her day off, to complete a display package that had been given to someone else to complete. Ms. Mason, however, related that appellant had ultimate responsibility for the display package program and that it was previously planned for appellant to work that Saturday, to fill in for one of her employees on leave. Ms. Mason related that the display package was to go up that Monday and, when she reviewed the display package on Sunday, several problems were found with it. Ms. Mason advised that the displays were appellant's responsibility and it was her overall responsibility to see that they were accomplished. There is no corroborative evidence to show that the supervisor's comments or suggestions concerning the display package were incorrect or abusive or that appellant was requested to do something which was outside her realm of responsibility.

Although appellant asserted that the rotation and scheduling plan was supposed to be a management decision, the evidence of record reflects that appellant had asked Ms. Mason to come up with a plan to use as her own. When Ms. Mason came up with such a plan, appellant failed to take responsibility and enforce it. She related that it was imperative that the employees understood that appellant was the manager of the grocery department. Moreover, the record reflects that appellant's lack of control over her employees and her failure to carry out her managerial responsibilities might have attributed to a morale problem in the department. Appellant has not submitted any corroborative evidence that she was not supported by management. Appellant also did not submit evidence showing that the employing establishment committed error or abuse with respect to assigning her work tasks or monitoring her work activities.

Although appellant claimed that she was blamed for the loss of an estimated 10 thousand dollars in products due to a refrigeration system going down and for ordering too much frozen food, there is no evidence to support that appellant was blamed for either incident. The Board

⁵ *Martha L. Watson*, 46 ECAB 407 (1995).

⁶ *See Marguerite J. Toland*, 52 ECAB 294 (2001); *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).

⁷ *Christopher Jolicoeur*, 49 ECAB 553, 557 (1998).

⁸ *See Michael Thomas Plante*, 44 ECAB 510, 515 (1993).

finds it reasonable for the employing establishment to investigate into those matters. An investigation is generally related to the performance of an administrative function of the employer and not the employee's regular or specially assigned work duties. Therefore, an investigation is not a compensable factor of employment unless there is affirmative evidence that the employer erred or acted abusively in the administration of the matter.⁹ Appellant had not provided sufficient evidence to support that the employing establishment has erred or acted abusively in conducting its investigation into those matters.

Appellant asserted that Ms. Mason would never give her a direct answer on how to accomplish certain tasks. Ms. Mason advised that she had a certain management style for problem solving. An employee's complaints concerning the manner in which a supervisor performs his duties as a supervisor or the manner in which a supervisor exercises his supervisory discretion, as a rule, is outside the scope of coverage provided by the Act. This principle recognizes that a supervisor or manager in general must be allowed to perform his duties, that employees will at times dislike the actions taken, but that mere disagreement or dislike of a supervisory or management action will not be actionable, absent evidence of error or abuse.¹⁰ Although appellant may not have liked Ms. Mason's management style, there is no showing that Ms. Mason abused her supervisory discretion by instigating "to do" lists, finding the work on the display package not sufficient, or letting appellant take full responsibility for the rotation and schedule change plan. Appellant has failed to submit the necessary factual evidence to establish that the employing establishment erred in its methodology in trying to help appellant learn and complete the requirements of her job.

Appellant alleged that there was poor morale in the commissary because her supervisors refused to work as a team with her. Appellant, however, has submitted no evidence to support her contention. Ms. Mason attributed part of the morale problem to appellant's lack of control and unwillingness to carry out her managerial responsibilities. She stated that appellant's failure to require subordinate employees to perform their assigned duties and responsibilities created an imbalance in the workload and resulted in tasks not being accomplished. She further stated that it was imperative that the employees understood that appellant was the manager of the grocery department and noted that appellant's behavior with regard to enforcing the rotation and schedule change plan undermined the very message that was being sent. Thus, while the atmosphere in appellant's office may not have been as teamwork-oriented as she would have liked, she has produced no evidence of error or abuse on the part of the employing establishment.¹¹

Although appellant has alleged that she was passed over on a mandatory training course by a lower-grade manager on the basis of "connections," the employing establishment stated that appellant was nominated to attend several courses, but noted there were either scheduling conflicts or appellant was not available. The employing establishment further advised that, due to the nature of the course, appellant's failure to attend did not impact her operational capability.

⁹ *Ernest St. Pieree*, 51 ECAB 623, 624 (2000).

¹⁰ *See Marguerite J. Toland*, *supra* note 6.

¹¹ *See Daniel B. Arroyo*, 48 ECAB 204 (1996).

Appellant has not provided evidence to establish a finding of error or abuse; therefore, she has not established a compensable employment factor under the Act with respect to this allegation.¹²

Appellant further alleged that she was subject to retaliation and/or additional malicious treatment once she began to request alternative leave status as her requests were being denied for “insufficient medical documentation.” She further stated that her requests for advance sick leave were denied,¹³ as well as her request to take Family Medical Leave Act leave. She stated that she was also sent a resignation letter, which caused her additional stress. A review of the evidence indicates that appellant has not shown that the employing establishment’s actions were unreasonable. She provided insufficient evidence to establish that her supervisor’s actions were unreasonable in support of her requests for leave after February 10, 2002.¹⁴ Thus, appellant has not established a compensable employment factor under the Federal Employees’ Compensation Act in this respect.¹⁵ She has not established administrative error or abuse in the performance of these actions and, therefore, they are not compensable under the Federal Employees’ Compensation Act.

For the foregoing reasons, appellant has not established any compensable employment factors under the Federal Employees’ Compensation Act and, therefore, has not met her burden of proof in establishing that she sustained an emotional condition in the performance of duty.¹⁶

CONCLUSION

Under the circumstances described above, the Board finds that appellant has not established an emotional condition in the performance of duty.

¹² *Lorraine E. Schroeder*, 44 ECAB 323, 330 (1992).

¹³ *See Judy Kahn*, 53 ECAB ___ (Docket No. 00-457, issued February 1, 2002). (Although the handling of leave requests and attendance matters are generally related to the employment, they are administrative functions of the employer and not duties of the employee.) *See also Ray E. Shotwell, Jr.*, 51 ECAB 656 (2000); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

¹⁴ *See Larry J. Thomas*, 44 ECAB 291, 300 (1992).

¹⁵ *See John Polito*, 50 ECAB 347 (1999).

¹⁶ 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).

ORDER

IT IS HEREBY ORDERED THAT the September 12, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 16, 2003
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member