

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA D. HARRISON and U.S. POSTAL SERVICE,
POST OFFICE, Marathon, FL

*Docket No. 02-814; Submitted on the Record;
Issued January 22, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant established that she developed an emotional condition due to factors of her federal employment.

Appellant, a 54-year-old supervisor of customer service, filed a notice of occupational disease on September 10, 2001 alleging that she developed a major depressive disorder due to factors of her federal employment. In a letter dated October 3, 2001, the Office of Workers' Compensation Programs requested additional factual and medical information from her. By decision dated November 14, 2001, the Office denied appellant's claim finding that she failed to establish a compensable factor of employment.

The Board finds that appellant has not established 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 or to hold a particular position.¹

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by employment factors.² The burden includes the submission of a detailed

¹ *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

² *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.³

In this case, appellant attributed her emotional condition to the lack of cooperation from her employees and a lack of support from upper management. She stated that she had become frustrated by the uncaring, unmotivated and lazy attitude of the other employees. Appellant stated that employees took no pride in their work. She stated that employees were constantly fighting, were loud and outspoken and would not follow instructions. Appellant stated that she received no backing from upper management. The Board has held that an employee's dissatisfaction with perceived poor management⁴ and with working in an environment which is considered undesirable, *i.e.*, where everyone does not just get along, constitutes frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable under the Federal Employees' Compensation Act.⁵

An employee asked appellant how long she had been employed by the employing establishment. Upon appellant's response, the employee stated that they would see how long appellant lasted as supervisor. 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.⁶ Appellant has not submitted any evidence substantiating any threat and has not established this factor of employment.

Appellant described one incident in which she denied street assistance to a carrier which resulted in the carrier going home. She stated that she granted assistance to a second carrier, whom she felt needed assistance but with whom the first carrier had animosity and, therefore, the first carrier stopped work in a pique. As it is within appellant's job description to determine whether to grant or deny street assistance, this situation constitutes a compensable factor of employment. She also stated that a carrier accused her of raising her voice in a training session. This incident resulted in appellant issuing a letter of warning to the carrier which was later rescinded. As a manager, it is appellant's duty to administer discipline, consequently, this disciplinary matter arose out of the performance of her duties and is compensable under *Cutler*.

As appellant has established compensable factors of employment, the Board will consider the medical evidence to determine if appellant has met her burden of proof in establishing that she developed an emotional condition as a result of her employment duties.

³ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

⁴ *See Michael Thomas Plante*, 44 ECAB 510, 515 (1993).

⁵ *See David M. Furey*, 44 ECAB 302, 305-06 (1992).

⁶ *Alice M. Washington*, 46 ECAB 382 (1994).

To establish appellant's occupational disease claim that she has sustained an emotional condition in the performance of duty appellant must submit rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.⁷ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸

Appellant's attending physician, Dr. Sanford Mintz, a clinical psychologist, diagnosed a major depressive episode precipitated by her work environment on May 9, 2001. In a form report dated May 16, 2001, Dr. Mintz indicated that appellant experienced anxiety, insomnia, depressed affect and difficulty concentrating. He described her as hypervigilant. On August 9, 2001 Dr. Mintz diagnosed severe emotional stress. In a report dated October 29, 2001, Dr. Mintz noted appellant's symptoms of panic attacks, insomnia and hypertension as well as crying daily, frequent nosebleeds and noticeable trembling. Dr. Mintz stated that appellant experienced a great deal of stress at work due to the uncaring, unmotivated and lazy attitude of her fellow employees. He noted that appellant mentioned both the incident when an employee went home when appellant failed to grant assistance and the incident when she was accused of raising her voice by a carrier, who then left the workfloor.

Dr. Mintz did not offer an opinion regarding the causal relationship between the accepted employment factors of granting auxiliary assistance and administering discipline and appellant's stress with described physical symptoms. He described both compensable and noncompensable employment factors in his October 29, 2001 report. Although Dr. Mintz mentioned the accepted factor of the denial of auxiliary assistance, he did not clearly opine that this work incident caused or contributed to appellant's stress. A clear opinion on the causal relationship between the diagnosed condition and the accepted employment factor is necessary as Dr. Mintz described appellant's noncompensable allegation of dissatisfaction with her work environment when addressing her current condition. As Dr. Mintz failed to provide the required opinion describing the causal relationship between appellant's job requirements that she grant or deny auxiliary help and that she administer discipline, this report is insufficient to meet appellant's burden of proof in establishing that her diagnosed major depressive episode arose due to her accepted employment duties.

Appellant submitted a note dated October 22, 2001 from a nurse practitioner opining that her problems came from work-related stress. As a nurse practitioner is not a physician as

⁷ *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

⁸ *Id.*

defined by the Act,⁹ this report does not constitute medical evidence and does not have the necessary probative value to support appellant's claim.¹⁰

As appellant has failed to submit the necessary medical evidence establishing a causal relationship between her diagnosed condition and her compensable employment factors, she has failed to meet her burden of proof in establishing that she developed an emotional condition as a result of her employment duties and the Office properly denied her claim.

The November 14, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
January 22, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁹ 5 U.S.C. §§ 8101-8193, 8102; *Joe Wilkerson*, 47 ECAB 604 (1996).

¹⁰ *Arnold A. Alley*, 44 ECAB 912 (1993).