

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHIRLEY R. DOBBINS and U.S. POSTAL SERVICE,
POST OFFICE, Memphis, TN

*Docket No. 02-288; Submitted on the Record;
Issued March 5, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On December 30, 1999 appellant, then a 47-year-old manager of distribution operations, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that on October 22, 1999 she had a nervous breakdown and was depressed and nervous as a result of a hostile environment in the course of her federal employment. She stopped work on October 22, 1999.

Appellant submitted a November 12, 1999 statement. She indicated that her condition originated in April 1993, when Lafayette Jackson was the plant manager. Appellant stated that Mr. Jackson falsely accused her of unprofessional conduct that included releasing confidential information about staff meetings and taking gifts and money for personal gain. Appellant indicated that he constantly told her that he was going to fire her and harassed her about her productivity, while leaving her counterparts of the same level and same low volume alone. She also described a team building class that she attended on September 27 and 28, 1993, during which all of the staff members were lifted about five feet high. Appellant indicated that all of the team members were caught, however, she was the only member who was dropped to the ground. She also alleged that Mr. Jackson attempted to place her in a position that she was not qualified for and had no knowledge of, so that she could be fired for nonperformance and she began to experience extreme emotional pain. Appellant stated that during a seminar in September 1994, she had to leave early because Mr. Jackson requested a meeting to discuss an allegation that she had not properly executed on a specific day, however, this allegation turned out to be incorrect. Appellant indicated that she met with Dave Bakke, who was Mr. Jackson's boss and the next day, Mr. Jackson called her at home to tell her that the medical documentation for being off was unacceptable that this was reprisal due to the meeting. Appellant indicated that Mr. Jackson wrongfully alleged that she had stolen time during her absence and the tour volume was down by 12 percent, that she was passed over for a managerial position and would never move up because

she had gone to the office on Mr. Jackson twice and had filed an Equal Employment Opportunity (EEO) Complaint. Appellant indicated that they received a new plant manager, William P. Stokes. However, Mr. Stokes came in with a condescending attitude and would undermine her authority, as he would not allow her to give discipline to her subordinates. She explained that when she was the senior manager of distribution operations, he undermined her authority, as he would not allow her to discipline her subordinates. However, she cited a case where the situation was reversed and the same manager whom she was prevented from trying to discipline earlier, was allowed to give her a letter of warning. She stated that the only time he communicated with her was when she had to defend herself and that she was accused by Mr. Stokes of spreading information within the workplace and disciplining others in full view, which later proved to be false. Appellant referred to an incident on Friday, October 22, 1999, indicating she went to Mr. Stokes' office to discuss off days for supervisors under her leadership and found that the schedule had been changed in an attempt to undermine her authority. Appellant was dismayed as she indicated that scheduling was part of her duties. She also stated that she accepted a four-month detail and was assured that she would return to the position that she left, senior manager distribution operations, however, upon her return, she was placed in a lower level position. Appellant alleged that she continued to express her concern over being placed in the lower position to Mr. Stokes, who disregarded her concerns.

The employing establishment provided a response dated January 14, 2000. Regina Todd, the senior manager of distribution operations, indicated that although appellant alleged that she did not have the support of her supervisor, she did not address these operational problems with her and she was not aware that appellant was experiencing any problems. Ms. Todd noted that appellant alleged that she was required to work 7 days a week, for 10 to 12 hours a day, however, she stated that this was not a requirement of her job and there was no indication that she was doing this. Further, she noted that appellant stated that she was falsely accused of inappropriate favoritism that led to investigations. Ms. Todd indicated that this was alleged to have happened in 1993 or 1994 and the results of this investigation were never revealed to her. Additionally, she noted that appellant alleged that she was sent for unnecessary training and denied the avenue of promotion. However, Ms. Todd noted that appellant had written the plant manager and thanked him for the training opportunities provided with his assistance. She further noted that promotion opportunities were available but she was not aware of appellant applying for any. Ms. Todd further noted that appellant was held accountable for performing her job and was responsible for the operation of her tour. She noted appellant's allegation that she was depressed and treated with no dignity and respect but stated that "I treat all [m]anagers with dignity and respect."

In support of her claim, appellant provided a June 10, 1993 confidential report, regarding an administrative investigation concerning charges of favoritism and or unethical conduct by management. The investigation revealed there was no evidence to support the charges of solicitation of gifts, cash contributions and favoritism. Further, it was determined that these charges were concocted by employees, Theresa Hyman and Cleve Standifer, in an effort to "assassinate [appellant's] character and bring her down." The investigator determined that the repeated rumors and false allegations had done substantial and unjustified damage to appellant.

In an October 22, 1999 report, Dr. Antoine Jean-Pierre, a Board-certified psychiatrist, noted that appellant was a postal worker for 23 years and was brought to the hospital in a state of confusion. Dr. Jean-Pierre noted that she was in a state of crisis, very confused, agitated, rambling and could not find words to express herself. He indicated that she was screaming, crying and unable to work and was brought in by a coworker. Following a brief psychiatric and mental examination, Dr. Jean-Pierre indicated that appellant was acutely distressed and on the verge of a breakdown. He found that appellant had diabetes mellitus, hypertensive disorder and loss of hair.

In a February 26, 1996 statement, Deloris R. Robinson, an attendance control supervisor, indicated that she and Mr. Jackson had several conversations during the time span of 1992 and 1993, concerning appellant. She noted that their relationship was less than harmonious. Mrs. Robinson stated that she questioned Mr. Jackson regarding his obvious dislike toward appellant and he replied, "Pete and John let her have her way." She stated that during the time of an investigation of appellant, Mr. Jackson spoke on several occasions concerning her. Mrs. Robinson stated that she tried to assure him that appellant would never do such things, of which she was being accused. She indicated he stated that: "he believed that she was guilty but employees lied, because they did not want to see her fired." Mrs. Robinson finally asked: "Mr. Jackson, just what is it, why won't you just give her a chance to be a part of your team. His remark was some people you just don't like."

Appellant submitted a November 21, 1995 memorandum, addressed to Mr. Jackson. In her memorandum to him, appellant acknowledged that she was aware that he did not like her and she was trying very hard to ignore the situation. She noted that he cut her off when she spoke and needed a break.

Appellant submitted several statements from witnesses. She included a February 2, 1996 letter, to Mr. Bakke regarding Mr. Jackson with a memorandum from him referring to "general ranting and raving by the plant manager." Appellant also submitted a February 7, 1996 memorandum, to Mr. Jackson concerning the issue of leave and time theft. She also enclosed an email from him of the same date concerning low volume. Appellant included a statement from Edward Fuller indicating that Kenneth Bohonna stated that Mr. Jackson did not like appellant. She enclosed a statement from Joyce Garth wherein she noted that Mr. Bohonna indicated that Mr. Jackson was going to get appellant. Ms. Garth also stated that Mr. Jackson had never stated to her that he did not like appellant and he had not given out nine jackets on Tour I. In a February 29, 1996 statement, Brenda Smith indicated that some people wanted appellant removed from the employing establishment. Appellant also provided a copy of her November 21, 1996 EEO complaint, in which she alleged that she was denied the opportunity to be trained or detailed for a position due to reprisal. She included handwritten notes from October 22, 1996.

In an April 22, 1999 letter from Mr. Stokes to Charles Doria, he stated that he was using a current student in the advanced leadership program as a senior manager, distribution operations. He further noted that appellant was available for detail at any time and he was able to release her for any headquarters detail they might need.

In a September 23, 1999 memorandum to appellant, Mr. Stokes addressed the chain of command for mail processing. He indicated that all matters concerning the operations of mail processing and related issues were to be addressed by Ms. Todd. He indicated that his door was open concerning personal matters, however, he would no longer tolerate or accept any attempts to circumvent or avoid interaction with the lead manager of distribution operations.

In a December 16, 1999 report, Dr. Jean-Pierre opined that it was his professional opinion that appellant's current psychiatric disability was the direct result of work. He explained that since 1994, appellant was subjected to chronic and repeated mental harassment and emotional abuse by her manager and fellow employees, who created an atmosphere of polarization and ostracism to demean and humiliate. Dr. Jean-Pierre stated that she was accused of wrongdoing and submitted to extensive investigations. She was essentially targeted and subjected to rumors and unsubstantiated allegations. He opined that appellant was administered subtle punishment by being sent away for "training" and recalled one or two days after and that she was responsible for actions she had no knowledge of. Dr. Jean-Pierre indicated that the cumulative effect of these multiple circumstances severely affected appellant, who literally broke down because her defense and emotional resources wore out. Additionally, he stated that dynamically, the repeated assaults to her ego strength were sufficient to break her resistance and capacity to function, resulting in an adjustment disorder with the symptoms described in her mental status. Psychological testing results also were enclosed.

In a December 29, 1999 attending physician's report, Dr. Jean-Pierre indicated that appellant was under stress from work during the last five or six years. He indicated that lately she was getting into unbearable conflicts and confrontations with the manager, who threatened and humiliated her, reaching a state of dysfunction and incapacitation. In response to whether there was any history or evidence of concurrent or preexisting injury or disease or physical impairment, Dr. Jean-Pierre checked the box "yes" and stated that patient was so severely affected that she had developed profuse hemorrhages, loss of hair and skin discoloration. He further opined that she had acute stress disorder, adjustment disorder with mixed features, hypertensive disorder and diabetes mellitus. In response to whether he believed the condition was caused or aggravated by an employment activity, Dr. Jean-Pierre checked the box "yes" and stated that appellant had endured numerous circumstances of conflicts, humiliations, accusations of wrong doing, being despised by her supervisor and being detailed from one place to another. He indicated that appellant was totally disabled from October 22, 1999 to the present.

In a response dated January 11, 2000, Mr. Stokes, the plant manager indicated that appellant alleged that he created a hostile work environment for female employees. He indicated that he could only say this was her perception and judgment. Mr. Stokes stated that he was a manager who allowed his staff to perform their duties and held them strictly accountable for their performance or lack thereof. He noted appellant's allegation that he would not allow her to discipline one of her subordinates, but that he allowed that manager to give her a letter of warning. Mr. Stokes explained that appellant did give this manager a letter of warning. He addressed appellant's allegation concerning allowing appellant to work on detail at headquarters under false pretenses and included an attachment. Mr. Stokes stated that appellant was selected to participate in the Advanced Leadership Program (ALP). He explained that this was a new initiative of the employing establishment to identify and develop leaders of the future and it was

required that she take additional courses to strengthen her areas of weakness. Mr. Stokes stated that he encouraged her to start taking graduate level courses to fulfill this requirement and that the postal service would pay all the costs of these courses, however, appellant never enrolled for any classes. He explained the Washington detail that appellant was assigned to and indicated that while she was away, he detailed someone else to fill her position. When appellant ended her detail early and returned to the bulk mail center before completing her assignment, she insisted she return to the detail as acting senior manager of operations (MOO). However, he explained that he chose not to make this change at that time because he wanted to allow the other MOO's to demonstrate their abilities. He addressed appellant's allegation that he would not meet with her to discuss operational problems and explained that he informed appellant that she should discuss this with her manager, the acting senior MOO, before she tried to meet with him. He referenced a memorandum addressing this issue. He stated that to his knowledge, appellant refused to discuss any of this with her manager. He also replied to appellant's allegation that the only time he communicated with her was when she was being accused by her subordinates, explained that this was untrue and cited examples of calls from Washington, D.C., letters and calls to his home to discuss issues and specifically noted that one call lasted over two hours. Mr. Stokes indicated that he may not have been available for every call, but he never refused to talk to her. Further, he stated that on October 22, 1999 he met with appellant and Levi Hibbler, the other MOO on the tour with her, about the nonscheduled days for senior distributors of operations (SDO's on Tour 2). Mr. Stokes stated that the three of them discussed this issue and he was under the impression that the issue had been resolved. After the meeting, they went outside in the parking lot to review parking spaces. He noted that appellant returned later that day requesting to see him alone. Mr. Stokes indicated that he had several appointments scheduled, but he informed his secretary that he would work her in. He stated that appellant sat in his outer office for approximately 45 minutes and that during this time, she refused to speak to anyone who entered this area. When he saw appellant, she started yelling and talking about not being treated fairly and that other MOO's were treated differently. Mr. Stokes indicated that she stood and shouted at the top of her voice, "I can [no]t take it anymore!" He tried to calm her down and stated, "If you do not want to work here, let me know." Mr. Stokes then stated that he would put her out of the building if she did not calm down. He noted that she stormed out of his office into the outer office, slammed the glass door, threw her radio on the floor and went down the hall in hysterics. He noted that he had only tried to assist appellant in her career endeavors and had done nothing to threaten her career or her devotion to the employing establishment.

In a February 4, 2000, letter, the Office of Workers' Compensation Programs advised appellant of the additional factual and medical evidence needed to establish her claim and requested that she submit such. Appellant was allotted 30 days to submit the requested evidence.

By letter dated February 17, 2000, appellant submitted additional information. She stated that the October 22, 1999 meeting with Mr. Stokes was one on one, however, his secretary was in the outer office area and it was likely that she could have heard loud voices. Appellant indicated that she was in an agitated state when she went to see Mr. Stokes, but she did not go into his office yelling first. She explained that her reason for being there was not personal and it was in concern for senior supervisors' off days under her leadership. Appellant stated that he did yell first and point his finger in her face and indicated that he was known for being loud and intimidating. She further stated that she had not filed an EEO complaint concerning this matter

because she was convinced that those issues were part of management. Appellant stated further that she was never under the care of a psychiatrist, psychologist or counseling prior to this incident and that she was never hospitalized for emotional conditions. Further, she stated that she had never taken medication for emotional conditions.

In an October 25, 1999 statement, Charlene Towns, the confidential secretary to Mr. Stokes, indicated that on Friday, October 22, 1999 at approximately 12:35 p.m., appellant came to the plant manager's office and stated that she wanted to see him. She inquired as to whether Mr. Stokes was expecting her and was informed that appellant did not have an appointment but she needed to see him. Ms. Towns indicated that the request was more of a demand as appellant came in and took a seat in an abrupt manner. Ms. Towns advised appellant that Mr. Stokes had someone in his office and appellant indicated that she would wait. Ms. Towns advised Mr. Stokes that appellant was there to see him and he informed her that he needed to leave early. Ms. Towns noted that his daily calendar had an entry for him to leave early that day. She also noted that he did not indicate whether he would see appellant, so she went back and advised appellant that he had someone in his office and might be awhile. She again indicated that she would wait. Around 1:00 p.m., the person in Mr. Stokes' office left and when he did not come out, Ms. Towns went in to remind him that appellant was still waiting. She indicated that he was going through his emails in preparation to leave for the day. She stated that he gave an impatient sigh and indicated that she could send appellant in. As appellant walked up to his office, Ms. Towns indicated that she could hear her tell Mr. Stokes, in a very upset tone, that he was not treating her right and that he was treating her differently from the other MDO's. She stated that after the door was shut, the conversation between the two of them escalated. Ms. Towns stated that she could hear Mr. Stokes tell appellant that if she did not like it here, she could turn in her resignation after that, all she could hear was raised voices and she could not distinguish who was speaking, one or both. After a while the voices became louder and sounded quite hysterical. Shortly, thereafter, appellant came out screaming, "I can't take it anymore." Ms. Towns noted that Mr. Stokes was right behind her. Ms. Towns indicated that Mary Humphreys was there and she motioned for her to move out of the way as appellant opened the glass door with much force. She noted that appellant took her two-way radio and flung it at the wall. She again screamed, "I just can't take it anymore," and looked at Mr. Stokes. He turned in a manner of disgust and went back into his office. Ms. Towns stated that appellant went to the stairwell and was on the floor crying and making unintelligible statements and was taken home.

In a January 17, 2001 decision, the Office found the evidence was not sufficient to establish that appellant sustained an injury in the performance of duty as alleged.

By letter dated April 18, 2001, appellant requested reconsideration. She responded to Mr. Stokes' statement and noted that there were inconsistencies as his secretary stated that he did not acknowledge in the affirmative or the negative whether he would see her. Additionally, she stated that she was not allowed to do her duties, such as scheduling and that she was never encouraged to take courses as she was on detail. She noted Ms. Todd's statement and indicated that she was fearful of forfeiting her position and she also noted that the statement from Ms. Towns was not the original as it was hand written. She enclosed additional information with

her request including statements, schedules, treatment notes, newspaper clippings and photographs.

The statements included: a letter from Vernita L. Edwards concerning her own personal claim for harassment; an April 18, 2001 statement from Earl S. Maclin concerning his position as a NAPS representative in February 1995, in which Mr. Maclin represented appellant for disparate treatment at the employing establishment; an April 19, 2001 statement from Shail Flaw Cantral regarding October 22, 1999; an April 18, 2001 statement from Connie Denton; a March 14, 2001 statement from Ms. Edwards¹; an undated letter received by the Office on April 20, 2001 from Frieda Mullins; an April 14, 2001 statement from Charlie Keaton; a January 12, 2001 statement from Joyce Fisher; a January 29, 2001 statement from Willie Morris; an April 13, 2001 statement from Melvin Parson²; and an April 17, 2001 statement from Ms. Robinson.³

By letter dated May 4, 2001, the Office requested additional information from the employing establishment including a response to the allegations and witness statements. The employing establishment was allotted 20 days to submit a response.

The Office received a declaration from Gregory Lewis dated June 6, 2001, regarding management's actions towards Myron Bass.

By decision dated July 30, 2001, the Office found that appellant had failed to establish any compensable factors of employment and affirmed the Office's January 17, 2001 decision.

The Board finds that this case is not in posture for decision.

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 his 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.⁴ On the other hand, the disability is not covered where it results from such factors as an

¹ Ms. Edwards confirmed that she had personally seen that appellant was singled out or identified as an outcast.

² Mr. Parson confirmed that appellant was dropped and it appeared on purpose, further he confirmed that appellant was unable to reach or talk to the plant manager, Mr. Stokes, concerning her detail during the summer of 1999.

³ In her statement, Ms. Robinson confirmed that Mr. Stokes pointed and yelled in a loud and boisterous manner to appellant. She also confirmed that appellant was not allowed to have the same consideration as other managers and referred to an incident that involved signing off days. She stated that after appellant would make assignments, they would be changed without her knowledge, in an effort to undermine her authority. Further, she indicated that when appellant requested clerical assistance for heavy workloads, her request was denied while other managers were given assistance. Finally, she confirmed that appellant was falsely accused of stealing time and accepting favors from subordinates.

⁴ 5 U.S.C. §§ 8101-8193.

employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.⁵

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.⁶ 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.⁷

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.⁸ 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.⁹

In the instant case, appellant has primarily attributed her emotional condition to harassment by her supervisors Mr. Jackson and Mr. Stokes and the employing establishment. The record contains an investigation report dated June 10, 1993, concerning charges of favoritism and or unethical conduct by management. The investigation revealed that there was no evidence to support the charges of solicitation of gifts, cash contributions and favoritism. Further, it was determined that these charges were concocted by employees, Ms. Hyman and Mr. Standifer, in an effort to "assassinate [appellant's] character and bring her down." The investigator determined that the repeated rumors and false allegations had done substantial and unjustified damage to appellant. The Board has held that investigations, which are an administrative function of the employing establishment that do not involve an employee's regularly or specially assigned employment duties are not considered to be employment factors.¹⁰ However, the Board finds that the investigation conducted on June 10, 1993 establishes that appellant was subjected to harassment in the workplace and suffered as a result of the harassment, false charges and slander to her reputation. The Board, therefore, finds that the result of the investigation is a compensable factor of employment.

⁵ See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

⁶ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁷ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

⁸ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁹ *Id.*

¹⁰ *Jimmy B. Copeland*, 43 ECAB 339, 345 (1991).

Appellant also alleged that Mr. Jackson made statements implying that she was a liar. She provided statements from Ms. Robinson who confirmed that Mr. Jackson did not like appellant. She confirmed that he believed that appellant was guilty “but employees lied.” The Board finds that appellant has established that she was harassed concerning her reputation as her reputation was disparaged and her supervisory authority was undermined. To the extent that disputes and incidents alleged as constituting harassment and discrimination by supervisors and coworkers are established as occurring and arising from appellant’s performance of his regular duties, these could constitute employment factors.¹¹ The Board finds that appellant has submitted evidence to show that the harassment or discrimination did in fact occur.

Appellant alleged that her authority was undermined and thwarted by Mr. Stokes and explained that she was in the process of giving out a letter of warning to a subordinate. She stated that the situation was later reversed and the same manager whom she was trying to discipline was allowed to give her a letter of warning. The Board finds that 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.¹² In this instance, appellant alleged that her claimed condition arose as a result of her attempts to meet the demands of her position. Discipline of subordinates was part of her position as a manager and the Board finds that appellant has established a compensable employment factor.

Appellant also alleged that on October 22, 1999 she went to Mr. Stokes’ office to discuss off days for supervisors under her leadership. Appellant alleged that the schedule had been changed in an attempt to undermine her authority. During the meeting, appellant and her supervisor subsequently became engaged in a heated discussion that erupted in shouting. The Board finds that appellant was attempting to perform her regularly assigned and attempting to meet the demands of her position when she went to discuss the change in scheduling and she has established a compensable factor of employment.

With respect to the shouting match that ensued between appellant and Mr. Stokes, the Board has recognized the compensability of physical threats or verbal abuse in certain circumstances. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under the Act.¹³ Although the Board has recognized the compensability of verbal abuse in certain circumstances, this does not imply that every statement uttered in the workplace will give rise to coverage under the Act.¹⁴ Appellant has not shown how such an isolated comment would rise to the level of verbal abuse or otherwise fall within the coverage of

¹¹ *David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, 42 ECAB 603, 608 (1991).

¹² *Lillian Cutler*, *supra* note 5.

¹³ *See Leroy Thomas, III*, 46 ECAB 946, 954 (1995); *Alton L. White*, 42 ECAB 666, 669-70 (1991).

¹⁴ *Harriet J. Landry*, 47 ECAB 543, 547 (1996).

the Act.¹⁵ Furthermore, with regard to pointing the finger in her face, appellant has not provided corroborating evidence, such as witness statements, to establish that he pointed his finger in her face or how such an incident would give rise to coverage under the Act.¹⁶

Regarding appellant's allegations that the employing establishment engaged in unfair performance evaluations, requested medical documentation, was offered a job for which she was unqualified, indicated that they did not like her, wrongly denied leave, improperly assigned-work duties and unreasonably monitored her activities at work, including giving out minutes of staff meetings and taking gifts and money from employees for personal gain, 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.¹⁷ Although the handling of disciplinary actions, evaluations and leave requests, 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.¹⁸ 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.¹⁹ Thus, appellant has not established a compensable employment factor under the Act with respect to administrative matters.

Regarding appellant's allegation of being detailed to Washington and returning to a lower position than she had previously and being denied the manager position, the Board has previously held that denials by an employing establishment of a request for a different job, promotion or transfer are not compensable factors of employment under the Act, as they do not involve appellant's ability to perform his regular or specially assigned-work duties, but rather constitute appellant's desire to work in a different position.²⁰ Thus, appellant has not established a compensable employment factor under the Act in this respect.

Regarding appellant's allegation that she developed stress due to insecurity about being able to do the job, manager of maintenance operations and maintaining this position, the Board

¹⁵ See, e.g., *Alfred Arts*, 45 ECAB 530, 543-44 (1994) and cases cited therein (finding that the employee's reaction to coworkers' comments such as "you might be able to do something useful" and "here he comes" was self-generated and stemmed from general job dissatisfaction). Compare *Abe E. Scott*, 45 ECAB 164, 173 (1993) and cases cited therein (finding that a supervisor's calling an employee by the epithet "ape" was a compensable employment factor).

¹⁶ See *Larry J. Thomas*, 44 ECAB 291, 300 (1992).

¹⁷ 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).

¹⁸ *Id.*

¹⁹ See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

²⁰ *Donald W. Bottles*, 40 ECAB 349, 353 (1988).

has previously held that a claimant's job insecurity, including fear of a reduction-in-force, is not a compensable factor of employment under the Act.²¹

Regarding appellant's allegations that Mr. Jackson did not like her, which made her uncomfortable. The Board has held that an employee's dissatisfaction with working in an environment which is considered to be tedious, monotonous, boring or otherwise undesirable 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.²²

Appellant has alleged that she was not given training. However, the record reflects that she was sent to several training activities and Mr. Stokes advised that the employing establishment would pay for any relevant graduate courses for which she enrolled. The Board has held that an employing establishment's refusal to give an employee training as requested is an administrative matter, which is not covered under the Act unless the refusal constitutes error or abuse.²³

Regarding appellant's allegation that she was purposefully dropped during a team training meeting. She provided a witness statement from Mr. Parson, who stated it appeared that she was dropped because no one else at the meeting was dropped despite several being much larger than appellant. However, without any other evidence to show that the drop was intentional, this is insufficient to establish a compensable factor of employment.

Appellant's burden of proof, however, is not discharged by her identification of compensable employment factors. To establish her claim for an emotional condition, appellant must also submit rationalized medical evidence establishing that she has an emotional or psychiatric disorder and that such disorder is causally related to an identified compensable employment factor.²⁴

Appellant submitted the reports of Dr. Jean-Pierre, who in his December 16, 1999 report confirmed that appellant's current psychiatric disability was the direct result of work. He explained that since 1994, appellant was subjected to chronic and repeated mental harassment and emotional abuse by her manager and fellow employees. Further, the physician stated that appellant was accused of wrong doings and subjected to extensive investigations. The physician opined that the cumulative effect of these multiple circumstances severely affected appellant and resulted in an adjustment disorder.

Although Dr. Jean-Pierre's reports do not contain sufficient rationale explaining how the accepted employment factor caused or contributed to appellant's emotional condition, the reports

²¹ See *Artice Dotson*, 42 ECAB 754, 758 (1990); *Allen C. Godfrey*, 37 ECAB 334, 337-38 (1986).

²² See *David M. Furey*, 44 ECAB 302, 305-06 (1992).

²³ *Lorraine E. Schroeder*, 44 ECAB 323, 330 (1992).

²⁴ *William P. George*, 43 ECAB 1159 (1992).

are generally supportive of appellant's claim and are sufficient to require further development of the case record by the Office.²⁵

On remand, the Office should refer appellant, together with the case record and a statement of accepted facts to an appropriate medical specialist for an evaluation and rationalized medical opinion regarding whether appellant's emotional condition is causally related to or aggravated by factors of her federal employment. After such further development as is deemed necessary, the Office should issue a de novo decision.

The July 30 and January 17, 2001 decisions of the Office of Workers' Compensation Programs dated are hereby set aside and remanded for further proceedings consistent with the opinion of the Board.

Dated, Washington, DC
March 5, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

²⁵ See *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).