

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOSEPHINE HOLLOMAN-ADAMS and U.S. POSTAL SERVICE,  
POST OFFICE, Cincinnati, OH

*Docket No. 03-1892; Submitted on the Record;  
Issued November 18, 2003*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant sustained an emotional condition causally related to factors of her employment or as a consequence of her accepted employment injuries.

On February 10, 2002 appellant, then a 43-year-old clerk, filed an occupational disease claim alleging that on December 20, 2001 she first realized that her depression, anger and uncertainty of her future were caused by the pain from her carpal tunnel syndrome and related injuries. Appellant stopped work on October 6, 2001. Appellant's claim was accompanied by a narrative statement describing the factors that caused her emotional condition and a March 1, 2002 letter from the employing establishment controverting her claim.

By letter dated March 6, 2002, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish her claim. The Office requested that appellant submit additional factual and medical evidence supportive of her claim. By letter dated March 7, 2002, the Office requested that the employing establishment submit factual evidence regarding appellant's claim.

In a March 8, 2002 letter, appellant submitted factual evidence accompanied by medical evidence. The employing establishment also submitted factual evidence in response to the Office's March 6, 2002 letter.

By decision dated August 14, 2002, the Office found the evidence of record insufficient to establish that appellant sustained an emotional condition in the performance of duty. In an August 30, 2002 letter, appellant, through her attorney, requested an oral hearing before an Office hearing representative.

In a July 20, 2003 decision, an Office hearing representative affirmed the Office's August 14, 2002 decision.

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 factors of her federal employment. To establish that she sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; (2) medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.<sup>1</sup>

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 coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position or to secure a promotion. On the other hand, where disability results from an employee's emotional reaction to her regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>2</sup>

The initial question presented is whether appellant has substantiated compensable factors of employment as contributing to her emotional condition,<sup>3</sup> if appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.<sup>4</sup>

Appellant alleged that the Office harassed her by asking her to provide additional information although nothing was done for her. She stated that in either 1998 or 1999 her request for voice activation software to perform her work duties was not addressed. Appellant also stated that the Office did not address her request for rehabilitation services, a chronic pain program and an ergonomic study. Claims that an emotional condition arose from the actions or inaction of the Office in consideration of a claim for compensation are not related to appellant's employment and therefore are not considered to be within the performance of duty.<sup>5</sup> Appellant therefore has not established that her emotional condition was sustained within the performance of duty because she has not shown that the emotional condition resulted from her assigned duties or requirements imposed by her employment.

Appellant alleged that she was harassed by personnel in the employing establishment's injury compensation office, who appeared to be angry with her due to her work-related injury.

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<sup>1</sup> *Vaile F. Walders*, 46 ECAB 822 (1995).

<sup>2</sup> *Mary Boylan*, 45 ECAB 338 (1994); 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

<sup>4</sup> *Garry M. Carlo*, 47 ECAB 299, 305 (1996); *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

<sup>5</sup> *Ralph O. Webster*, 38 ECAB 521 (1987); *Virgil M. Hilton*, 37 ECAB 806 (1986).

She alleged that they shared confidential information regarding her financial and medical status with her coworkers and made personal comments about her condition to her coworkers. Actions of an employee's supervisor or coworkers, which the employee characterizes as discrimination or harassment, may constitute a compensable factor of employment. However, for discrimination or harassment to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did, in fact, occur.<sup>6</sup> Mere perceptions or feelings of harassment do not constitute a compensable factor of employment.<sup>7</sup> An employee's allegation that he or she was harassed or discriminated against is not determinative of whether or not harassment or discrimination occurred.<sup>8</sup> To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting her allegations with probative and reliable evidence.<sup>9</sup> Appellant did not submit any corroborating witness statements establishing that the alleged incidents, which she believed constituted harassment by the employing establishment, actually occurred.<sup>10</sup> She has not established that her financial or medical records were shared with coemployees.

Appellant has cited one compensable factor of employment: chronic pain and limitations from her accepted employment-related injuries. Appellant stated that she was diagnosed as having bilateral carpal tunnel syndrome; right and left wrist tendinitis; left medial epicondylitis; left shoulder trapezius and left shoulder impingement.<sup>11</sup> Appellant further stated that as a result of her conditions she was unable to work and take care of her family. The Board has held that an emotional condition related to chronic pain and limitations resulting from an employment injury are compensable under the Act.<sup>12</sup>

In a January 21, 2002 report, Dr. Ozzie H. McDonald, III, appellant's psychologist, cited chronic pain arising from appellant's employment injuries as a factor contributing to the development of her depressive and anxiety disorders. In response to specific questions, Dr. McDonald stated that the onset of appellant's diagnosis of depressive and anxiety disorders followed a work injury that did not respond positively to medical care and chronic physical pain became a serious issue for appellant. He stated that the development of appellant's emotional condition came after she was no longer able to continue gainful employment as a function of chronic pain and limited mobility. Dr. McDonald, however, did not provide a full medical history or sufficient medical rationale explaining how or why chronic pain or the physical limitations from appellant's accepted employment injuries caused or contributed to her

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<sup>6</sup> *Shelia Arbour (Vincent E. Arbour)*, 43 ECAB 779 (1992).

<sup>7</sup> *See Lorraine E. Schroeder*, 44 ECAB 323 (1992); *Sylvester Blaze*, 42 ECAB 654 (1991).

<sup>8</sup> *William P. George*, 43 ECAB 1159 (1992).

<sup>9</sup> *See Anthony A. Zarcone*, 44 ECAB 751 (1993); *Frank A. McDowell*, 44 ECAB 522 (1993); *Ruthie M. Evans*, 41 ECAB 416 (1990).

<sup>10</sup> *See William P. George*, *supra* note 8.

<sup>11</sup> The record reveals that appellant's conditions were accepted by the Office under claim number 09-0352855.

<sup>12</sup> *See Arnold A. Alley*, 44 ECAB 912 (1993); *Charles J. Jenkins*, 40 ECAB 362, 367 (1988).

emotional condition.<sup>13</sup> For this reason, Dr. McDonald's report is insufficient to establish that appellant's emotional condition is causally related to her federal employment.<sup>14</sup>

The July 20, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
November 18, 2003

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>13</sup> Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

<sup>14</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. *Pamela R. Rice*, 38 ECAB 838 (1987).