

In a memorandum dated July 10, 2004, Carol Miller, the postmaster, stated that appellant requested Family Medical Leave Act leave to care for her son from May 3 to July 12, 2004. The postmaster indicated that appellant called her because she thought Dan Griffin, a supervisor, was pressuring appellant to return to work. According to the postmaster, appellant was reassured that she could take as many days as needed to care for her son.

Appellant submitted a narrative statement on August 13, 2004 alleging that the postmaster managed the office “through threats and intimidation.” Appellant noted changes made to starting times and office procedures. She indicated that the carriers received a list of 13 requirements in December 2002, such as ensuring doors are locked. According to appellant, the postmaster violated labor laws by trying to restrict the grievance process. She discussed an August 22, 2003 incident in which she called 911 when another carrier claimed the postmaster was threatening her. Appellant contended that she was subject to numerous official discussions and had problems with leave due to her son’s illness.

By decision dated August 25, 2004, the Office denied the claim for compensation. It found that appellant had not established a compensable work factor regarding her claim.

On August 31, 2004 Ms. Miller submitted an August 24, 2004 memorandum controverting the claim. The postmaster stated that appellant was told in May 2004 she could take as much time as she needed to care for her son. Appellant became upset after a meeting with other carriers on June 30, 2004 to discuss why the carriers were late leaving to deliver their route. Shortly after the meeting, appellant offered her resignation. The postmaster stated that appellant was not harassed about her absences, did not have any discipline on her record and was not reprimanded or threatened.

Appellant requested reconsideration of her claim on August 22, 2005 and further addressed her claim. She alleged a hostile work environment and stated that charges were filed against the postmaster with the National Labor Relations Board by postal employees.¹ A November 21, 2004 letter to Senator Saxby Chabliss, signed by appellant and several coworkers, complained that the work site was managed through fear and intimidation. There is also an undated letter to a congressional representative alleging harassment and an April 9, 2005 letter to the postmaster general and others, alleging a violation of an employing establishment bulletin regarding violence and behavior in the workplace. With respect to witness statements, there are a number of responses to a questionnaire regarding appellant, which make general statements as to appellant and the workplace.² In a November 4, 2003 statement, a former coworker stated that she was fired after the postmaster received a copy of the letter sent to a congressional representative. Appellant also submitted a copy of an October 4, 2003 form signed by Ms. Miller indicating that appellant did not have her vehicle flashers on while delivering mail and a copy of an attendance and leave policy issued by the postmaster dated October 11, 2002.

¹ The evidence of record contains charges made by another coworker.

² Some of the questionnaires are not signed.

With respect to the August 22, 2003 incident, appellant described a conversation between Patrice English, a coworker, and Ms. Miller after Ms. English went into a supervisors office to place a telephone call. Appellant could not hear what was said. Ms. English told appellant that she was being threatened and asked appellant to call the police. Appellant dialed 911, but as she was speaking there was a police officer on the scene.

Ms. Miller submitted an August 30, 2005 letter, stating that appellant was not reprimanded or threatened on a daily basis. According to the postmaster, discussions were held with appellant and other employees in accord with the employment contract. On June 30, 2004 there was a discussion with appellant and five other carriers as to why they were late leaving the office. No employee was reprimanded or disciplined, but they were asked to provide explanation for problems arising.

By decision dated October 5, 2005, the Office denied modification of the August 25, 2004 decision. The Office found no compensable work factors were established. Appellant requested reconsideration and submitted a July 1, 2004 statement from a supervisor of customer service. The supervisor stated that the postmaster would hold talks with the carriers and use statements such as “you better follow my instruction” or “you can be fired or disciplined.” The supervisor asserted that the postmaster’s discrimination and harassment caused him stress and depression.

In a decision dated April 7, 2006, the Office denied modification of the October 5, 2005 decisions. The Office found that the evidence of record did not substantiate a compensable work factor.

LEGAL PRECEDENT

To establish a claim that she sustained an emotional condition in the performance of duty, appellant must submit: factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition, medical evidence establishing that she has an emotional or psychiatric disorder and rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.³

The Board has held that 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 employment but nevertheless does not come within the concept or coverage of workers’ compensation. Where the medical evidence establishes that the disability results from an employee’s emotional reaction to her regular or specially assigned employment duties or to a requirement imposed by the employing

³ *Leslie C. Moore*, 52 ECAB 132 (2000).

establishment, the disability comes within coverage of the Federal Employees Compensation Act. The same result is reached when the emotional disability resulted from the employee's emotional reaction to the nature of her work or her fear and anxiety regarding her ability to carry out her work duties.⁴

By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation law because they are not found to have arisen out of employment, such as when disability results from an employee's fear of reduction-in-force or frustration from not being permitted to work in a particular environment or hold a particular position.⁵

ANALYSIS

In the present case, appellant made general allegations of harassment and a hostile work environment caused by the postmaster. The perception of harassment or mistreatment is not sufficient to establish a compensable work factor. There must be probative and reliable evidence in support of the allegation.⁶ The evidence of record does not contain probative and reliable evidence sufficient to establish harassment or a hostile work environment. There are, for example, no findings by the Equal Employment Opportunity Commission or other administrative agency on the issue.⁷ The witness statements and the documents from coworkers made general allegations but do not provide specific examples of harassment involving appellant. Appellant alleged threats and intimidation, without describing in detail specific incidents. A customer service supervisor referred generally to statements made by the postmaster to all carriers. The statements described do not rise to the level of verbal abuse, nor does the supervisor describe specific incidents involving appellant. There is no evidence in the record that is sufficient to substantiate a claim of harassment in this case.

Appellant has also raised allegations with respect to leave matters and other administrative actions. The Board has held that matters involving the use of leave and procedures relating thereto are administrative and personnel matters that are not directly related to an employee's regular or specially assigned duties.⁸ Where the evidence demonstrates that the employing establishment has neither erred nor acted abusively in administration of personnel matters, coverage will not be afforded.⁹ In this case, there is no probative evidence of error or

⁴ *Ronald J. Jablanski*, 56 ECAB ____ (Docket No. 05-482, issued July 13, 2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

⁵ *Id.*

⁶ See *Beverly R. Jones*, 55 ECAB 411 (2004). In evaluating workers' compensation claims, the term harassment is synonymous with a persistent disturbance, torment or persecution, *i.e.*, mistreatment by coemployees or coworkers.

⁷ Such evidence, while not determinative, may constitute substantial evidence regarding a compensable work factor. See *Walter Asberry, Jr.*, 36 ECAB 686 (1985).

⁸ *Barbara J. Nicholson*, 45 ECAB 803 (1994); *Diane C. Bernard*, 45 ECAB 223 (1993).

⁹ See *Sharon R. Bowman*, 45 ECAB 187, 194 (1993).

abuse in an administrative matter. Appellant alleged that there were problems with using leave for her son's illness, but the postmaster indicated that appellant could use leave as needed and there is no evidence of specific error or abuse regarding appellant's leave.

Although appellant alleged that she was subject to constant reprimands, the evidence of record does not establish error or abuse regarding disciplinary matters. The postmaster denied that appellant was subject to disciplinary action and the only evidence of record is an October 2003 employing establishment form stating that appellant was found driving without using flashers while on her posted route.

The specific incidents regarding the August 22, 2003 incident, where appellant was asked to call the police, pertain to another coworker and the postmaster. Appellant acknowledged in her statement that she did not hear what was said and there was no evidence of verbal abuse or action directed at appellant in this incident. On June 30, 2004 there was a discussion with appellant and five other carriers regarding the time they left the office to begin their route. They were advised to notify the postmaster, as to problems arising which would cause a delay. Again, no evidence of error or abuse was presented.

Based on the evidence of record, appellant has not substantiated a compensable work factor. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.¹⁰

CONCLUSION

The evidence does not substantiate a compensable work factor and, therefore, the Office properly denied the claim for an emotional condition.

¹⁰ See *Margaret S. Krzycki*, 43 ECAB 496 (1992).

ORDER

IT IS HEREBY ORDERED THAT the April 7, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 18, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board