

mental stress due to incidents occurring on March 9 and April 13, 2004.¹ Appellant stopped work on April 13, 2004.

By letter dated May 6, 2004, Maged Aziz, appellant's supervisor, related that appellant prepared and registered a remittance for \$2,248.52 but that the money was not received by the bank. He stated that investigators with the employing establishment interviewed her in connection with the disappearance and indicated that employees are required to cooperate with investigations. Mr. Aziz asserted that appellant "failed to conduct a stock audit on two clerks in a timely manner" and related:

"I had a phone conversation with [appellant] on April 12, 2004. I questioned her failure to audit two clerks['] [s]tock in a timely manner, and also explained the seriousness of her violation and how it would result [in] money lost.... During this phone conversation I scheduled [appellant] for an [i]nvestigative interview on the following day, and I explain[ed] it might result [in] corrective action taken on her."

In a statement dated May 26, 2004, appellant related that she received a telephone call around 10:30 p.m. on March 9, 2004 from an official with the employing establishment informing her that a deposit was missing. She stated:

"After the realization of what he said hit me I told him that I had dispatched the deposit. I was informed that the registered sack was received but the deposit was [not] in the sack. I agreed to return to the office to check and see if I may have accidentally left the deposit envelope out of the registered sack."

Appellant indicated that she became frightened when she left her car to search for the missing deposit because the area was dark and deserted. She searched for the registered envelope but learned later that night that the missing envelope was the inside penalty envelope rather than the outside registered envelope. Appellant went to another facility that night intending to search for the deposit but experienced car trouble. She stated that she turned in some mail at the other facility which she had picked up from the office and then returned home. At work the next day, Mr. Aziz instructed appellant to search her office for the missing deposit. She searched her office but could not find the deposit. Appellant further noted that looking for the deposit "set me back with my responsibilities" such that she was unable to complete administrative paperwork before a deadline. She related that the next day Mr. Aziz instructed her to look again for the deposit and also to count her drawer and main stock. Appellant stated that she was upset by the manner in which Mr. Aziz treated her. She indicated that she was told to report for a meeting with Mr. Aziz on the following Monday even though she had approved leave for that date. Appellant noted that she did not complete her mail count paperwork due to stress and went to the office on a Saturday to finish the count. She stated that, when she met with Mr. Aziz for the scheduled meeting on Monday, he was surprised to see her. She found out the following Saturday from her clerk that another deposit was missing. On April 12, 2004 Carol Campbell "telephoned and complained about the numerous times she had called my office to get

¹ As appellant attributed her condition to employment factors occurring over more than a single workday, the Office properly adjudicated her claim as an occupational disease. See 20 C.F.R. § 10.5(q).

reports. I explained to her that I had been out of work, and my clerk had not been accustomed to doing the reports, also in playing catch up I had overlooked submitting a couple of reports as well.” Appellant related that she provided Ms. Campbell with the information. Subsequently, Mr. Aziz called to inquire about the reports not provided to Ms. Campbell and to ask why she had not counted her clerks in 120 days. Appellant explained that difficulties with rebuilding crashed computer disks prevented her from completing the accounting. Mr. Aziz told her that he was holding a predisciplinary interview with her because she did not count the clerks. Appellant stopped work due to stress. On May 17, 2004 she provided Mr. Aziz with medical documentation and, on May 21, 2004, learned that the alleged perpetrator of the theft had been arrested on May 14, 2004. She contended that Mr. Aziz had not informed her of the arrest when he had the opportunity.

By decision dated June 18, 2004, the Office denied appellant’s emotional condition claim after finding that she had not established any compensable employment factors.

On November 15, 2004 appellant requested reconsideration of her claim. She explained that the events of March 9, 2004 “became unbearable because in addition to the already overwhelming daily duties that were assigned, there were additional demands placed on me simultaneously.” Appellant described employment duties to which she attributed her condition. She alleged that it was not reasonable for Mr. Aziz to request that she count her drawer and main stock as that was performed on a quarterly basis. Appellant also maintained that he erred in repeatedly questioning her about the deposit, scheduling a meeting during a time when she had approved leave, intimidating her until she agreed to pay back money that she had not taken, telling her clerk that other money had been taken but asking the clerk not to tell her and failing to tell her that the man who stole the deposit had been arrested. She also contended that the inspector from the employing establishment should not have told her that it was one of the employees at her work location who took the deposit rather than the contract driver.

By decision dated January 11, 2005, the Office denied modification of its June 18, 2004 decision. The Office indicated that it was not addressing the new issues raised in appellant’s request for reconsideration and informed her to file a separate claim on those issues.

LEGAL PRECEDENT

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 her 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.² On the other hand, the disability is not covered where it results from such factors as an employee’s fear of a reduction-in-force or her frustration from not being permitted to work in a particular environment or to hold a particular position.³

² 5 U.S.C. §§ 8101-8193; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

³ *Gregorio E. Conde*, 52 ECAB 410 (2001).

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under the Act.⁴ However, the Board has held that where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.⁵ In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.⁶

Investigations are considered to be an administrative function of the employer when they are not related to an employee's day-to-day duties or specially assigned duties or to a requirement of the employee's employment.⁷ The employing establishment retains the right to investigate an employee if wrongdoing is suspected or as part of the evaluation process.⁸ An employee's fear of being investigated is not covered under the Act.⁹

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.¹⁰ 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.¹¹

ANALYSIS

Appellant attributed her emotional condition primarily to the investigation by the employing establishment into the missing deposit. The Board has held that investigations are an administrative function of the employing establishment and do not involve an employee's regular or specially assigned employment duties. Investigations will be considered an employment factor where the evidence demonstrates error or abuse on the part of the employing

⁴ See *Matilda R. Wyatt*, 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

⁵ See *William H. Fortner*, 49 ECAB 324 (1998).

⁶ *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁷ *Thomas O. Potts*, 53 ECAB 353 (2002).

⁸ *Sandra F. Powell*, 45 ECAB 877 (1994).

⁹ *Garry M. Carlo*, 47 ECAB 299 (1996).

¹⁰ *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹¹ *Id.*

establishment.¹² In this case, appellant alleged error and abuse by Mr. Aziz in repeatedly questioning her about the deposit, treating her like he believed that she took the money, intimidating her and failing to keep her informed about the progress of the investigation. Mr. Aziz noted that employees were required to cooperate with investigations and that other employees were questioned in conjunction with the missing March 9, 2004 deposit. Appellant has not submitted sufficient evidence to establish that Mr. Aziz or any other employing establishment official acted unreasonably or abusively during the course of the investigation. Therefore, she has not established a compensable employment factor.

Appellant further contended that Mr. Aziz acted abusively in scheduling a meeting for a time when she had approved leave. Although the handling of leave requests is generally related to the employment, it is an administrative function of the employer and not a duty of the employee.¹³ An administrative or personnel matter will be considered to be an employment factor only where the evidence discloses error or abuse on the part of the employing establishment.¹⁴ In this case, appellant related that a superior recommended that she attend the meeting and that Mr. Aziz was surprised to see her at the meeting. She submitted insufficient evidence to establish error or abuse by the employing establishment in scheduling a meeting during a time when she had previously been approved leave and has not established a compensable employment factor.

Appellant additionally attributed her condition to Mr. Aziz requiring her to count her drawer and stock even though this was performed quarterly. The assignment of work, however, is an administrative function of a supervisor.¹⁵ She has not submitted any evidence that her supervisor acted erroneously in assigning her such duties and thus it is not covered under the Act.¹⁶

Regarding Mr. Aziz scheduling a predisciplinary interview because she had not counted her clerks in 120 days, the Board notes that disciplinary actions are administrative functions of the employer and not duties of the employee and, unless the evidence discloses error or abuse on the part of the employing establishment, not compensable employment factors.¹⁷ Appellant has not submitted any evidence establishing error or abuse in Mr. Aziz arranging a predisciplinary interview.

In her description of the employment factors to which she attributed her condition, appellant included searching for the missing deposit on March 9, 2004 and then repeatedly searching her office for the missing deposit as requested by Mr. Aziz. To the extent that

¹² *Beverly A. Spencer*, 55 ECAB ____ (Docket No. 03-2033, issued May 3, 2004); *Linda K. Mitchell*, 54 ECAB 748 (2003).

¹³ *Lori A. Facey*, 55 ECAB ____ (Docket No. 03-2015, issued January 6, 2004).

¹⁴ *Id.*

¹⁵ *Beverly R. Jones*, 55 ECAB ____ (Docket No. 03-1210, issued March 26, 2004).

¹⁶ *Id.*

¹⁷ *See Lori A. Facey*, *supra* note 13.

appellant alleged that she experienced stress due to searching for the missing deposit, this would constitute a compensable employment factor. The Board has held that where the claimed disability results from an employee's emotional reaction to her regular or specially assigned duties, the disability comes within the coverage of the Act.¹⁸ Appellant, consequently, has established a compensable employment factor under the Act.

As the Office found that there were no compensable employment factors, it did not address the medical evidence. The case, therefore, will be remanded to the Office to address the medical evidence and determine whether it establishes that her emotional condition is causally related to the compensable factor of employment. Upon remand, the Office should consider the new employment factors alleged by appellant in her November 15, 2004 request for reconsideration. In its January 11, 2005 decision, the Office declined to address the new employment factors delineated by appellant and instructed her to file a new claim. It is well established, however, that a claim need not be filed on any particular form; an informal claim in writing is sufficient, so long as it contains words which reasonably may be construed or accepted as a claim.¹⁹ Letters and statements in amplification and expansion of a claim are as much a part of a claim as the claim form itself.²⁰ Upon return of the case record, the Office should adjudicate this aspect of the claim. After such further development as is deemed necessary, the Office should issue a *de novo* decision on appellant's claim.

CONCLUSION

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

¹⁸ See *Lillian Cutler*, *supra* note 2; *Penelope C. Owens*, 54 ECAB 684 (2003).

¹⁹ *Barbara A. Weber*, 47 ECAB 163 (1995).

²⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 11, 2005 is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 8, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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