

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**S.R., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Northglenn, CO, Employer**

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**Docket No. 07-827  
Issued: August 23, 2007**

*Appearances:*  
*John Evangelisti, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On February 5, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated January 23, 2007 regarding her claim for an emotional condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has established that she sustained an injury causally related to compensable work factors.

**FACTUAL HISTORY**

On May 24, 2004 appellant filed an occupational disease claim (Form CA-2) alleging that she sustained stress, anxiety and depression as a result of her federal employment. She also indicated that her arthritis and hereditary hemorrhagic telangiectasia was aggravated by her stress. According to appellant, she felt increasing pressure from management to do her job in less time and she was called in for discussions several times.

In a narrative statement, appellant indicated that she began working on route 4166 in July 2003 and this route had 611 dismount stops. She stated that she had trouble completing the route in eight hours and “management was pushing to go faster everyday.” According to appellant management told her to complete the route in eight hours but she felt the route was longer than eight hours. She alleged that management was intimidating her and she made mistakes from trying to go too fast. Appellant indicated that on March 22, 2004 she was reprimanded for being late the previous week and on May 1, 2004 she was called in for a meeting regarding unauthorized overtime use.

In a June 14, 2004 statement, a supervisor, Kathy Walls, noted that on May 1, 2004 appellant was called into the office for a meeting regarding unauthorized overtime the previous day. She indicated that appellant reported talking to her physician for 45 minutes and she was given an appropriate form. In a July 7, 2004 statement, an employing establishment supervisor, Connie Hanlon, stated that management noticed that appellant was struggling with route 4166. There were four meetings to try and “find out what was going on and what we could do to help [appellant].” Ms. Hanlon indicated that appellant was offered a different route but she declined, stating that she needed the overtime. With respect to overtime use, Ms. Hanlon indicated that all carriers needed an eight-hour day on their fifth day, so they would not use penalty overtime resulting in double pay. She indicated that appellant was called into the office for being late, although no disciplinary action was taken. Ms. Hanlon stated that appellant was never told she had to complete the route in eight hours. She also indicated that the route was completed in eight hours by a replacement carrier.

Another supervisor, Dennis Johnson, provided a July 23, 2004 statement discussing appellant’s allegations. He stated that appellant was told that other employees were meeting the hours required for her route and she was asked why she could not complete the route within eight hours. Mr. Johnson stated that appellant had been called in for late reports and unauthorized overtime, but there was no formal disciplinary action.

With respect to medical evidence, appellant submitted a June 7, 2004 report from Dr. Ian Bach, a family practitioner, who reported that she was having difficulty with supervisors “requesting what she feels are inappropriate levels of work.” Dr. Bach stated that appellant was told the route had to be completed in 8 hours, but it took closer to 9 or 10 hours. According to him, appellant had a May 1, 2004 meeting at which her supervisors became hostile. Dr. Bach opined that appellant’s depression and anxiety were causally related to her employment, in particular to the hostile environment that occurred due to her supervisor’s unreasonable expectations.

By decision dated August 23, 2004, the Office denied the claim for compensation. The Office found that appellant did not establish any compensable work factors.

On September 13, 2004 appellant requested an oral hearing before an Office hearing representative. An oral hearing was held on April 19, 2005. She stated that it took nine to nine and one half hours to complete her route. Appellant submitted a June 2, 2005 statement from a coworker, Danny L. Goodwin, who stated that he was assigned to her route and it was a route with lots of mail and 612 stops. He stated that he was pressured to complete his route and was

threatened with disciplinary action. A witness statement from a union steward, Dwight L. Gardner, indicated that he was with appellant during management meetings. He did not provide further detail.

In a statement dated May 20, 2005, an employing establishment compensation specialist, Stephen Nagy, discussed appellant's route and the use of overtime. He indicated the standard time for office duties was calculated at three hours and three minutes. A November 23, 2003 employing establishment document indicated that the eight-week average street time for the route was 5 hours, 29 minutes. Mr. Nagy stated that there had been numerous discussions with appellant regarding her apparent time wasting practices.

By decision dated June 16, 2005, the hearing representative modified the August 23, 2004 decision. He found that compensable work factors were established in that it was not disputed that appellant's route had 611 stops and appellant worked more than eight hours per day. The hearing representative found that the record showed the route required 8 hours and 32 minutes to complete. No other compensable work factors were found to be substantiated by the evidence. With respect to the medical evidence, the hearing representative found that the record did not provide a reasoned medical opinion.

Appellant requested reconsideration and submitted the June 7, 2004 report from Dr. Bach. By decision dated June 13, 2006, the Office determined that the request was insufficient to warrant merit review of the claim. She again requested reconsideration and submitted an April 17, 2006 report from Dr. Randolph Pock, a psychiatrist, who stated that appellant convincingly described the onset of anxiety and depression to a hostile work environment from her supervisors. He opined that her symptoms were caused by the work environment.

By decision dated January 23, 2007, the Office reviewed the case on its merits and denied modification.

### **LEGAL PRECEDENT**

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.<sup>1</sup> This burden includes the submission of detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.<sup>2</sup> A claimant must also submit rationalized medical opinion evidence establishing a causal relationship between the claimed condition and the established, compensable work factors.<sup>3</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

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<sup>1</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

<sup>2</sup> *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>3</sup> *See Bonnie Goodman*, 50 ECAB 139, 141 (1998).

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 secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his 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>4</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors 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.<sup>5</sup> 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.<sup>6</sup>

A reaction to an administrative or personnel matter is generally not covered as it is not related to the performance of regular or specially assigned duties.<sup>7</sup> Nevertheless, if the evidence demonstrates that the employing establishment erred, acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.<sup>8</sup>

### ANALYSIS

Appellant filed an occupational claim alleging that she sustained stress, anxiety and depression, as well as aggravation of physical conditions, resulting from her federal employment. The initial question is whether she has substantiated compensable work factors with respect to her claim. Appellant's primary allegation in this case is that she felt pressured by her supervisors regarding the completion of her mail route. She alleged that she was intimidated by her supervisors and was told she had to complete the route in eight hours.

The actions of the supervisors with respect to the completion of her route are administrative in nature. As noted above, to substantiate a compensable work factor, the evidence must demonstrate that the employing establishment erred or acted abusively in this

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<sup>4</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>5</sup> *See Norma L. Blank*, 43 ECAB 389-90 (1992).

<sup>6</sup> *Id.*

<sup>7</sup> *See Brian H. Derrick*, 51 ECAB 417, 421 (2000).

<sup>8</sup> *Margreate Lublin*, 44 ECAB 945, 956 (1993).

administrative matter. The evidence of record does not establish error or abuse by the employing establishment. Ms. Hanlon stated that appellant was not required to complete the route in eight hours, but there were meetings held to try and help appellant complete the route in a more timely fashion. No evidence was submitted that would establish these meetings or any action of the supervisors was erroneous or abusive in this case. With respect to a May 1, 2004 meeting on use of overtime, there was no evidence presented that the supervisors were hostile or acted abusively. There were no formal disciplinary actions taken and there is no probative evidence of record establishing error or abuse regarding denial of overtime or other actions of the supervisors. The Board finds the evidence of record does not substantiate a compensable work factor regarding an administrative action of the employing establishment.

The Office hearing representative did make a finding that compensable work factors were substantiated in that the record established the 4166 route had 611 delivery stops and the route inspection showed that the route would take approximately eight and one half hours to complete. There was no finding, nor does the record support, that a compensable factor based on overwork was substantiated. For example, the employing establishment did indicate that other employees had completed the route in a more timely fashion and appellant herself discussed the actions of her supervisors, not the work duties.<sup>9</sup>

Since there were compensable work factors, the medical evidence is reviewed to determine if an injury causally related to compensable work factors has been established. Dr. Bach referred to a hostile environment and unreasonable expectations of supervisors, which, as noted above, have not been substantiated as compensable work factors. Dr. Pock also referred to a hostile work environment. Neither of the physicians provided a rationalized medical opinion on causal relationship between a diagnosed condition and compensable work factors. In the absence of probative medical evidence, appellant did not meet her burden of proof to establish an injury in the performance of duty.

### **CONCLUSION**

Appellant did not meet her burden of proof to establish an injury causally related to compensable work factors.

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<sup>9</sup> See *Cyndia R. Harrill*, 55 ECAB 522 (2004) (while an unusually heavy workload or unreasonable deadlines may constitute a compensable work factor, there was no evidence to support a claim of overwork and appellant primarily referred to the actions of her supervisors).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 23, 2007 is affirmed.

Issued: August 23, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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