



only stress I have been subjected to has been at the Aurora Post Office by Mr. Traversa.” Appellant stated that she had filed an Equal Employment Opportunity (EEO) complaint against him.

Appellant alleged almost daily harassment and verbal abuse by Mr. Traversa. She offered details in a five-page statement. The employing establishment, and Mr. Traversa specifically, denied appellant’s allegations and noted that her emotional condition was related to situations in her personal life, including her ex-husband’s release from prison.

Appellant underwent a psychiatric evaluation and was diagnosed with major depressive disorder, single episode. She submitted medical opinion evidence stating that the decline in her functional capacity was due to multiple psychosocial factors, including the release of her ex-husband, but that the “the bulk of her incapacity is due to her work situation.”

In a decision dated November 20, 2006, the Office denied appellant’s claim for compensation. The Office found that she failed to establish as factual any compensable factor of employment. The Office noted that she presented no evidence to demonstrate that Mr. Traversa’s actions were erroneous or abusive.

Appellant requested an oral hearing before an Office hearing representative. She submitted, among other things, statements from current or former employees who related their personal experiences with Mr. Traversa. On April 25, 2007 appellant testified before the Office hearing representative. After the hearing she submitted, among other things, an April 24, 2007 statement from Tammy L. Rutherford which stated:

“On a day at the end of January or the beginning of February 2006, [appellant] and I ... were called into the postmaster’s office. At that time he was integrating us on what we had done that day. During the course of this harassment Jim Traversa stated that [appellant] and I ‘were the two worse fucking supervisors he has ever had.’”

On May 22, 2007 Jacqueline Sanchez stated that she was present during all individual meetings with all supervisors when they were asked to give detailed lists of duties: “[Appellant] and Ms. Rutherford were interviewed separately and *no* derogatory statements were made by Mr. Traversa then or ever in any meeting with [appellant].” (Emphasis in the original.)

In a decision dated July 3, 2007, the Office hearing representative affirmed the denial of appellant’s claim.

### **LEGAL PRECEDENT**

The Federal Employees’ Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>1</sup> But workers’ compensation does not cover each and every illness that is somehow related to one’s

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<sup>1</sup> 5 U.S.C. § 8102(a).

employment.<sup>2</sup> An emotional reaction to an administrative or personnel action is not compensable unless the evidence shows error or abuse on the part of the employing establishment.<sup>3</sup> Allegations alone by a claimant are insufficient.<sup>4</sup> Mere perceptions and feelings of harassment or discrimination will not support an award of compensation. The claimant must substantiate such allegations with probative and reliable evidence.<sup>5</sup>

### ANALYSIS

Appellant attributes her emotional and emotional-physical conditions to the treatment she received from her postmaster, Mr. Traversa. She has leveled a number of allegations against him, allegations that he and the employing establishment have denied. Appellant attempted to substantiate her allegations by submitting statements from employees who described their own experiences with Mr. Traversa, but this evidence does not directly address how Mr. Traversa treated appellant. The statements are thus immaterial to appellant's claim that she sustained the injury alleged. The only third-party statement that supports appellant's claim comes from Ms. Rutherford, who wrote that around the end of January or beginning of February 2006 Mr. Traversa stated that she and appellant "were the two worse fucking supervisors he has ever had." This evidence, however, is rebutted by Ms. Sanchez, who stated that she was present during all such meetings and that Mr. Traversa made no derogatory statements to appellant, then or in any meeting.

Appellant has filed an EEO complaint against Mr. Traversa, but there is no evidence that she has been successful in obtaining a finding or final decision. There is no probative evidence establishing that he erroneously denied any leave request or that he harassed, threatened or verbally abused appellant. The record stands largely as her word against his. Because appellant has not substantiated her allegations with probative and reliable evidence, the Board finds that she has not met her burden of proof to establish a factual basis for her claim.

Appellant's claim is not one that is generally covered by workers' compensation. Her emotional reaction to an administrative or personnel matter, or to the actions of her superior, is not compensable as a rule. The Board recognizes an exception where the evidence establishes administrative error or abuse, but appellant has not shown that her claim falls within this exception. The Board will therefore affirm the denial of her claim for compensation benefits.

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<sup>2</sup> *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

<sup>3</sup> *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff'd on recon*, 42 ECAB 566, 572-73 (1991).

<sup>4</sup> *See Kathleen D. Walker*, 42 ECAB 603 (1991); *Arthur F. Hougens*, 42 ECAB 455 (1991); *Ruthie M. Evans*, 41 ECAB 416 (1990). In each of these cases, the Board looked beyond the claimant's allegations of unfair treatment to determine if the evidence corroborated such allegations.

<sup>5</sup> *Joel Parker, Sr.*, 43 ECAB 220, 225 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990) (for harassment to give rise to a compensable disability, there must be some evidence that harassment or discrimination did in fact occur); *Pamela R. Rice*, 38 ECAB 838 (1987) (claimant failed to establish that the incidents or actions which she characterized as harassment actually occurred).

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish that she sustained an emotional condition in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 3, 2007 and November 20, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 10, 2008  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board