

In a February 22, 2006 report, Dr. Mark A. Harrington, Board-certified in family practice, stated that appellant had complaints of anxiety and depression. He noted that she experienced hopelessness, anhedonia, social withdrawal, fatigue, insomnia and low self-esteem, with no suicidal ideation. Appellant had a previous history of generalized anxiety disorder. He diagnosed anxiety disorder probably related to job stress.

In a statement received by the Office on May 9, 2006, appellant alleged that she had been working in a two-person job until June 2005, when it was changed to a one-person job. She stated that two people could not accomplish the mission. Appellant's problems began when Charles Bradsher, her immediate supervisor, arrived in June 2005 and continued through September 8, 2005 when she arrived at the Safe Haven location following Hurricane Katrina. She stated that her stress increased after she lost her home during Hurricane Katrina. Appellant stated:

“Maj Franklin expressed to the staff that it's [my] fault you don't have supplies sense [sic] she's not here blame her. Mr. Bradsher putting me down in front of other employees, I need to find another job. [He stated] you eat too much that's why you are sick. I had to get a written note from the Doctor to eat snacks during the course of the day due to my diabetic condition. Maj Franklin yelling at me giving me a direct order as if I was in the military. Mr. Bradsher referring to me while speaking to Maj Franklin as their little package, humiliating me in front of officers, recruiters and coworkers. This is just a few experiences I have encountered. Only thing gave me relive [sic] was to stay away from the situation until I gained my self esteem back. Every time I tried to return to work the same thing [sic] just in a different tactic and approaches they would take.

“I have experienced sleepless nights, muscle spasm, blood pressure elevated, sugar running abnormal, weight gain, hair loss, nervisness [sic] when I walk in the door at work, resulting in panic attacks and anxiety. This has resulted in me missing over 300 hours of work. ... My health is failing due to the constant criticism from Mr. Bradsher and Maj Franklin. I informed Mr. Bradsher I could not take much more of this harassment and mental abuse from them....

“I had an episode where Mr. Bradsher was counseling me with our Human Resource Mrs. Shirley Franklin. The situation got heated and I could not breath [sic] and blacked out and Mr. Perkins came from across the hall picked me off Mr. Bradsher's office floor ... he and the other person did not render me aid. This took place 4 April 2006.”

In a statement received by the Office on May 10, 2006, appellant made the following allegations:

When I fell and injured her right hand on October 12, 2005, Mr. Bradsher told her “I am not the one to give your sympathy, if you are looking for that.” She also stated that, when she asked for the injury forms, she was told to look them up on online;

On November 7, 2005 she informed Mr. Bradsher that she had to leave to attend a doctor's appointment and had elevated blood pressure. Mr. Bradsher replied, in front of her coworkers, that "you need to find another job; I can't use you for this mission because [you are] slow, always complaining." He also stated civilians were always in the wrong lane, always butting into the wrong thing, and he was glad that he was not a civilian because civilians don't know anything. Mr. Bradsher asserted that he was a veteran and appellant was jealous because everybody she worked with was a veteran; he stated that they would make her an honorary veteran so she wouldn't feel left out." Appellant stated that she was embarrassed by Mr. Bradsher's comments;

On November 23 through 25, 2005 appellant requested funding for an awards banquet but Mr. Bradsher never followed up with the necessary documents to have the funding approved;

On November 30, 2005 Mr. Bradsher overloaded appellant with assignments when she had just returned from a business trip and was trying to deal with the loss of her home;

On December 1, 2005 appellant had ordered supplies for a recruiting trip when Mr. Bradsher returned from a business trip and again told her she needed to find another job;

On December 7 and 8, 2005 Mr. Bradsher again made insulting and demeaning remarks in front of her coworkers, once again causing her embarrassment and humiliation;

On December 9, 2005 appellant was working to provide supplies and drinks for recruiters on a business trip when a supply sergeant told her he had forgotten to buy drinks for the meetings. After she told the sergeant she would get the drinks from a nearby Wal-Mart, Major Franklin, the base commanding officer, called her a few hours later and screamed at her that he had given her a direct order to get the drinks. Appellant burst into tears, was shaking, and again experienced humiliation, embarrassment and degradation in front of her coworkers.

Appellant referenced several other incidents from December 2005 to February 2006 in which she allegedly encountered resistance in obtaining forms and sick leave to deal with her diabetes and her burgeoning emotional condition.

By decision dated August 30, 2006, the Office denied appellant's emotional condition claim. It found that appellant had established three compensable factors of employment: the September 2005 staff meeting in which Major Franklin stated that other employees should be angry at her; the December 2005 incident in which Major Franklin made insulting remarks toward her in front of her coworkers; and the November 2005 incident in which Mr. Bradsher stated she needed to find another job and that as a civilian she knew nothing. The Office, however, that the medical evidence of record did not establish that her claimed emotional

condition was causally related to the accepted employment factor. It stated that the medical evidence appellant had submitted was not sufficient to establish that she had sustained her emotional condition in the performance of duty.

On September 29, 2006 appellant requested an oral hearing, which was held on May 4, 2007.

In a May 29, 2007 report, Dr. Gerald M. Barber, Board-certified in family practice, stated:

“I first saw [appellant] on August 14, 2006 when a history was taken of her past medical problems. This did include her injury at [the employing establishment] on March 15, 2006.... I am aware of her depression which she states resulted from the ‘on the job’ problems. I have read her account of the harassment she feels she is receiving from superiors and coworkers on the job. This is obviously *not* my job to determine the facts of the alleged abuses on the job. As a family doctor for [appellant], I can report she is constantly agitated, stressed, unhappy and on medication for depression and anxiety. When asked about the cause of her depression and anxiety, she states she had none of these *before* her current ‘job problems.’ I do feel her stress is obviously negatively affecting her overall health -- blood pressure, diabetes, neck pain, etc. This is all I can factually attest. I will leave it up to the Labor Department to investigate this patient’s alleged ‘on the job’ abuse and harassment.” (Emphasis in the original.)

By decision dated July 5, 2007, an Office hearing representative affirmed the August 30, 2006 decision.

LEGAL PRECEDENT

To establish that an emotional condition was sustained in the performance of duty, there must be factual evidence identifying and corroborating employment factors or incidents alleged to have caused or contributed to the condition, medical evidence establishing that the employee has an emotional condition and rationalized medical opinion establishing that compensable employment factors are causally related to the claimed emotional condition.¹ There must be evidence that implicated acts of harassment or discrimination did, in fact, occur supported by specific, substantive, reliable and probative evidence.²

The first issue to be addressed is whether appellant has cited factors of employment that contributed to her alleged emotional condition or disability. Where the disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees’ Act.³ On the other hand, disability is not covered where it results from an employee’s fear of a reduction-in-force, frustration from not being permitted to work in a particular environment or to hold a

¹ See *Debbie J. Hobbs*, 43 ECAB 135 (1991).

² See *Ruth C. Borden*, 43 ECAB 146 (1991).

³ *Lillian Cutler*, 28 ECAB 125 (1976).

particular position, or to secure a promotion. Disabling conditions resulting from an employee's feeling of job insecurity or the desire for a different job do not constitute a personal injury sustained while in the performance of duty within the meaning of the Act.⁴

ANALYSIS

In the instant case, the Office accepted three incidents as compensable: the September 2005 staff meeting in which Major Franklin stated that other employees should be angry at her; the December 2005 incident in which Major Franklin made insulting remarks toward her in front of her coworkers; and the November 2005 incident in which Mr. Bradsher stated she needed to find another job and that as a civilian she knew nothing. The Board finds that, given the circumstances described by appellant and accepted as factual by the Office, these three incidents constitute compensable factors of employment.⁵

However, appellant's burden of proof is not discharged by the fact that she has established employment factors which may give rise to a compensable disability under the Act. To establish her occupational disease claim for an emotional condition, appellant must also submit rationalized medical evidence establishing that she has an emotional or psychiatric disorder and that such disorder is causally related to the accepted compensable employment factors.⁶ Appellant submitted the February 22, 2006 report from Dr. Harrington and the May 29, 2007 report from Dr. Barber. Neither of these reports, however, contained a rationalized medical opinion, based on a proper factual and medical background, containing an opinion on causal relationship or otherwise relating her diagnosis to the factors found compensable in this case. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁷ Dr. Harrington does not provide a complete factual background or provide an opinion relating appellant's accepted employment incidents as causative factors to her diagnosed emotional condition. Although he presented diagnoses of appellant's condition, he did not adequately address how these conditions were causally related to the accepted employment factors. Dr. Harrington noted a previous history of generalized anxiety disorder, stated that appellant had complaints of anxiety and depression and diagnosed anxiety disorder, probably related to job stress. He related complaints of hopelessness, anhedonia, social withdrawal, fatigue, insomnia and low self-esteem, with no suicidal intentions. Dr. Harrington's report, however, merely presented a summary conclusion that appellant's conditions were causally related to the accepted employment factors.

Dr. Barber noted a history of depression and anxiety which appellant felt was caused by problems at work. He stated that appellant was constantly agitated, stressed, unhappy and on

⁴ *Id.*

⁵ *Mary J. Summers*, 55 ECAB 730 (2004).

⁶ *See William P. George*, 43 ECAB 1159, 1168 (1992).

⁷ *See Anna C. Lanza*, 48 ECAB 115 (1996).

medication for depression and anxiety. Although Dr. Barber asserted that her stress had a negative affect upon her overall health and aggravated her conditions of blood pressure, diabetes and neck pain, he declined to provide an opinion regarding whether the alleged on-the-job abuse and harassment was responsible for her worsening physical and mental condition. He noted that appellant believed she was being harassed by superiors and coworkers on the job, but stated that it was not his job to determine the facts of any alleged abuses at work. There is therefore insufficient rationalized evidence in the record that appellant's emotional condition was work related.

For these reasons, the Board finds that appellant did not submit sufficient medical evidence to establish that she sustained an emotional condition causally related to her compensable work factors.

As to the other allegations raised, the Board finds that appellant has submitted insufficient evidence to establish compensable factors of employment. An employee's emotional reaction to an administrative or personnel matter is not covered under the Act, unless there is evidence that the employing establishment acted unreasonably.⁸ In the instant case, appellant has presented no evidence that the employing establishment acted unreasonably or committed error with regard to the incidents of alleged unreasonable actions involving administrative or personnel matters on the part of the employing establishment. The Board has held that an employee's dissatisfaction with perceived poor management constitutes frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable under the Act.⁹ Appellant has not submitted sufficient evidence to support her allegations that the employing establishment ignored her requests for assistance, gave her incorrect and contradictory instructions, imposed an unusually heavy work load and issued unreasonable deadlines.

Regarding appellant's allegation that she developed stress due to the uncertainty of her job duties and her insecurity about maintaining her position, the Board has previously held that a claimant's job insecurity is not a compensable factor of employment under the Act.¹⁰ The Board notes that matters pertaining to use of leave and overtime are generally not covered under the Act as they pertain to administrative actions of the employing establishment and not to the regular or specially assigned duties the employee was hired to perform.¹¹ However, error or abuse by the employing establishment in an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in the administrative or personnel matter, may afford coverage.¹² As appellant has failed to show that these actions demonstrated error or abuse on the part of management, they are not compensable. Accordingly, appellant has presented no evidence that the employing establishment acted unreasonably or committed error with regard to

⁸ See *Alfred Arts*, 45 ECAB 530, 543-44 (1994).

⁹ See *Michael Thomas Plante*, 44 ECAB 510, 515 (1993).

¹⁰ See *Artice Dotson*, 42 ECAB 754, 758 (1990); *Allen C. Godfrey*, 37 ECAB 334, 337-38 (1986).

¹¹ *Elizabeth Pinero*, 46 ECAB 123 (1994).

¹² *Margreate Lublin*, 44 ECAB 945 (1993).

these incidents of administrative managerial functions. A reaction to such factors did not constitute an injury arising within the performance of duty; such personnel matters were not compensable factors of employment in the absence of agency error or abuse.

Accordingly, the Board affirms the July 5, 2007 decision of the Office hearing representative, which properly affirmed the August 30, 2006 decision denying compensation for an alleged emotional condition.

CONCLUSION

The Board finds that the Office properly found that appellant failed to meet 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 5, 2007 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 6, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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