



on the DBCS [Delivery Bar Code Sorter] machines, because [my immediate supervisor] Janice Cooper had bid to another position.”

Appellant referred to an incident on March 11, 2005 when Mr. Cameron and another individual “cornered me on the DBCS machines, I felt trapped. Out of fear, I talked loud to get the attention of others in the area.” After that incident, appellant tried to avoid Mr. Cameron as much as possible.<sup>1</sup>

Appellant submitted a July 24, 2006 disability slip from her psychiatrist, Dr. Mark A. Kelley: “[Appellant] is disabled from her current work assignment starting today. This disability will continue from now for a length of time that is not able to be determined.” On September 11, 2006 Dr. Kelley wrote:

“[Appellant’s] on-the-job injury was the change in her work setting in which her supervisor, who she could work well with, suddenly was no longer going to be her supervisor and Mr. Cameron, who she has had problems with previously, specifically two years ago, was announced to be her supervisor. In my opinion she will not be able to return to work under the supervision of Mr. Cameron.”

On March 14, 2007 Dr. Kelley stated: “Due to the distress and psychological trauma [appellant] experienced with Mr. Cameron she was not able to work under his supervision and she became disabled from work when he was assigned to be her supervisor.” On November 1, 2006 he added:

“[Appellant] did have exacerbation of symptoms regarding [borderline personality disorder] with finding herself in distressing circumstances by suddenly finding [Mr.] Cameron becoming her immediate boss with her supervisor, [Ms.] Cooper, moving to a different position. This change in her working circumstances was so distressing for her she was not able to work. This disability was manifested with a variety of symptoms of anxiety, belief that she was being deliberately treated badly with paranoid features, having both anxiety symptoms and psychotic symptoms, with difficulty with properly evaluating reality. These symptoms included psychophysiological symptoms and conversion symptoms in which physical complaints emerged in response to the mental distress she experienced. Currently she has developed physical symptoms particularly involved in the digestive track of nausea, vomiting, diarrhea, and abdominal discomfort.”

In a decision dated May 3, 2007, the Office denied appellant’s claim for compensation. It found that she failed to establish a compensable factor of employment.

Following an oral hearing on September 19, 2007, an Office hearing representative issued a decision on December 3, 2007 affirming the denial of appellant’s claim. The hearing representative found that appellant submitted no evidence to support her assertion that she was to work with Mr. Cameron.

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<sup>1</sup> In a separate case, OWCP File No. xxxxxx532, appellant claimed compensation for a traumatic emotional injury on March 11, 2005. On appeal, Docket No. 08-2038, the Board affirmed the Office decisions denying benefits.

## 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>2</sup> But workers' compensation does not cover each and every illness that is somehow related to the employment. When an employee experiences emotional stress in carrying out her employment duties or has fear and anxiety regarding her ability to carry out her duties, and the medical evidence establishes that the disability resulted from her emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation because they are not found to have arisen out of employment, such as when disability results from an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>3</sup>

Workers' compensation does not cover an emotional reaction to an administrative or personnel action unless the evidence shows error or abuse on the part of the employing establishment.<sup>4</sup> Fear of future injury is not a compensable factor of employment.<sup>5</sup>

## ANALYSIS

Appellant alleged a psychological trauma on or about July 24, 2006 but it did not arise from the duties she performed at work. She noted that she found out that Mr. Cameron was going to become her immediate supervisor. Although this had some kind of connection to her employment, workers' compensation does not cover appellant's emotional reaction to such news. The organization of personnel is a managerial function. It lies outside the performance of appellant's assigned duties. In the absence of administrative error or abuse directly affecting appellant, her disagreement with or objection to the reassignment of Mr. Cameron is not compensable.

Appellant did not submit any evidence of administrative error or abuse. Although she alleged a run-in with Mr. Cameron on March 11, 2005, the record does not establish that she was medically restricted from working with him prior to July 24, 2006. The earliest such restriction the Board can find comes from Dr. Kelley on September 11, 2006. Any administrative decision to make Mr. Cameron the supervisor of the DBCS machines, and thereby appellant's immediate supervisor, did not violate any medical restriction that was in effect at that time.

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<sup>2</sup> 5 U.S.C. § 8102(a).

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>4</sup> *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566, 572-73 (1991).

<sup>5</sup> *Helen E Paglinawan*, 51 ECAB 591 (2000) (the attending psychiatrist reported that work at the Guam duty station might cause a relapse of the employee's symptoms); *Virginia Dorsett*, 50 ECAB 478 (1999) (the employee's reaction to the proposed change of work shifts was held to be, in essence, a fear of future injury, and the possibility of a future injury did not constitute an injury under the Act); *Nicholas R. Kothe*, 29 ECAB 4 (1977) (fear of future injury).

To the extent that appellant feared what might happen to her if Mr. Cameron became her immediate supervisor, the Board finds that such fear is not compensable. An emotional reaction caused by fear of future injury is considered self-generated. It does not constitute an injury arising out of the performance of her duties.

The Board will affirm the Office decisions denying appellant's claim for benefits. Appellant describes an emotional injury that is not compensable, one that did not arise in the performance of her duties.

**CONCLUSION**

The Board finds that appellant has not met her burden to establish that she sustained a traumatic emotional injury in the performance of duty on or about July 24, 2006.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 3 and May 3, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 13, 2009  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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