

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PATRICIA A. JOHNSON and U.S. POSTAL SERVICE,  
POST OFFICE, Aurora, OH

*Docket No. 98-1667; Submitted on the Record;  
Issued February 22, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained an injury causally related to compensable factors of her federal employment.

In the present case, appellant filed a claim alleging that she sustained fatigue, exhaustion and a nervous breakdown causally related to her federal employment. By decision dated September 24, 1996, the Office of Workers' Compensation Programs denied the claim on the grounds that fact of injury had not been established. Appellant submitted additional evidence, including a narrative statement on the factors of employment she believed contributed to her condition. By decision dated May 20, 1997, the Office again denied the claim, finding that appellant had not substantiated any compensable employment factors.

A hearing before an Office hearing representative was held on January 15, 1998. By decision dated March 20, 1998, the hearing representative affirmed the May 20, 1997 decision.

The Board has reviewed the record and finds that appellant has not established an injury causally related to compensable factors of her employment.

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> To establish her claim that she sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; (2) medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.<sup>2</sup>

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

<sup>2</sup> *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

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 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 her 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>3</sup>

In the present case, the record contains an undated narrative statement, as well as testimony at the January 5, 1998 hearing, with respect to the employment factors alleged to have contributed to an injury. In her March 20, 1998 decision, the hearing representative discusses at length the allegations made by appellant and the Board will not repeat them here. Essentially appellant's allegations fall into two categories: (1) allegations of error by the employing establishment in administrative decisions that violated the employment contract; and (2) allegations of harassment and retaliation by supervisors Deborah Gatto and Jeff McKittrick.

With respect to allegations of administrative error, appellant asserted that flexible clerks could not get the number of hours of work promised, because temporary clerks were used and the postmaster performed clerical duties. It is well established that administrative or personnel matters, although generally related to employment, are primarily administrative functions of the employer rather than duties of the employee.<sup>4</sup> The Board has also found, however, that an administrative or personnel matter may be a factor of employment where the evidence discloses error or abuse by the employing establishment.<sup>5</sup> Although appellant indicated that the union filed grievances on these matters, the record does not contain any probative evidence of error or abuse by the employing establishment. Unsupported allegations of error or abuse are not sufficient to establish a compensable factor of employment.<sup>6</sup>

The allegations of harassment and retaliation also are unsubstantiated by the record. With respect to a claim based on harassment or discrimination, the Board has held that actions of an employee's supervisors or coworkers which the employee characterizes as harassment may constitute a factor of employment giving rise to a compensable disability under the Act. A claimant must, however, establish a factual basis for the claim by supporting the allegations with

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

<sup>4</sup> *Anne L. Livermore*, 46 ECAB 425 (1995); *Richard J. Dube*, 42 ECAB 916 (1991).

<sup>5</sup> *See Michael Thomas Plante*, 44 ECAB 510 (1993); *Kathleen D. Walker*, 42 ECAB 603 (1991).

<sup>6</sup> *See Harriet J. Landry*, 47 ECAB 543, 547 (1996); *Martin Standel*, 47 ECAB 306, 308 (1996).

probative and reliable evidence.<sup>7</sup> An employee's allegation that he or she was harassed or discriminated against is not determinative of whether or not harassment occurred.<sup>8</sup>

In this case, appellant stated, for example, that she was subject to harsh comments, schedule changes, conflicts over taking breaks and public discussion of her medical condition, but there is no evidence to establish harassment in this case. There are no findings of an administrative body, probative witness statements, or other substantial evidence that could support the finding of a compensable factor of employment in this case.

The Board also notes that appellant's initial narrative statement appeared to implicate overwork as a contributing factor, since she noted working six-day weeks and some split shifts. At the January 15, 1998 hearing, however, appellant indicted that it was not the split shifts, but the alleged violation of the employment contract that caused her reaction. In any case, an allegation of overwork must be supported by the evidence,<sup>9</sup> and there is no probative evidence in this case.

Accordingly, the Board finds that appellant has not substantiated a compensable factor in this case. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.<sup>10</sup>

The decisions of the Office of Workers' Compensation Programs dated March 20, 1998 and May 20, 1997 are affirmed.

Dated, Washington, D.C.  
February 22, 2000

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>7</sup> *Gregory N. Waite*, 46 ECAB 662 (1995); *Barbara J. Nicholson*, 45 ECAB 803 (1994).

<sup>8</sup> *Helen P. Allen*, 47 ECAB 141 (1995).

<sup>9</sup> *Robert W. Wisenberger*, 47 ECAB 406 (1996).

<sup>10</sup> *See Margaret S. Krzycki*, 43 ECAB 496 (1992).