

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAMELA STEPHENS and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 98-2585; Submitted on the Record;
Issued March 27, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

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

In the present case, appellant filed a claim alleging that she sustained emotional stress causally related to her federal employment. In a narrative statement, appellant indicated that the employing establishment's handling of her leave requests had contributed to her condition. Appellant stated that in August 1994 she had to use leave to take care of her mother and when she returned in September 1994, she was initially charged with leave without pay and could not pay her rent. She indicated that a supervisor initially questioned how a doctor could tell that she was under stress a month ago. According to appellant, she used leave in September 1995 to care for her father and she had difficulty getting her annual leave restored. Appellant also asserted there were problems with her sick leave after a July 22, 1996 injury and reported that she had received a disciplinary letter for failure to attend a class in June 1995.

By decision dated July 31, 1997, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she had not established a compensable factor of employment. Appellant requested a hearing before a Office hearing representative, which was held on March 4, 1998. She submitted a statement asserting that the employing establishment had humiliated and belittled her in their actions and statements and twice she was forced to move due to a failure to properly handle her leave requests.

By decision dated June 4, 1998, an Office hearing representative affirmed the July 31, 1997 decision.

The Board has reviewed the record and finds that appellant has not established that she sustained an emotional condition causally related to compensable factors of her federal 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.¹ 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.²

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 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.³

In the present case, appellant's allegation is that she sustained an emotional reaction to the way the employing establishment handled administrative matters involving leave requests and a disciplinary letter. The Board has held that matters involving the use of leave and procedures relating thereto are administrative and personnel matters that are not directly related to an employee's regular or specially assigned duties.⁴ Where the evidence demonstrates that the employing establishment has neither erred or acted abusively in administration of personnel matters, coverage will not be afforded.⁵

Appellant has alleged error or abuse in this case, asserting that her leave requests were improperly delayed or denied, causing her hardships and subjecting her to humiliating statements from management.⁶ It is not enough, however, to raise allegations of error or abuse. A claimant must support her allegations with probative and reliable evidence.⁷ In the present case, the

¹ *Pamela R. Rice*, 38 ECAB 838 (1987).

² *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

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

⁴ *Barbara J. Nicholson*, 45 ECAB 803 (1994); *Diane C. Bernard*, 45 ECAB 223 (1993).

⁵ *See Sharon R. Bowman*, 45 ECAB 187, 194 (1993).

⁶ Appellant cited as an example a statement from supervisor Pritchard on September 27, 1994, requesting additional information from appellant's physician and questioning how the physician could tell she was under stress a month earlier.

⁷ *See Peggy Ann Lightfoot*, 48 ECAB 490 (1997).

record does not contain probative evidence of erroneous or abusive action by the employing establishment. The record contains no findings of error by an administrative agency, nor are there other documents, statements, or other probative evidence on which the Board could find error or abuse.

In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.⁸ A review of appellant's statements indicates that there were some delays in processing her leave requests. The allegations do not, however, show that the employing establishment acted unreasonably. Appellant cites an instance where a supervisor questioned her medical evidence, but that itself is not unreasonable and appellant's own statement indicates that she did subsequently receive the requested leave. She stated that she had to move twice because she could not pay the rent, but it is unclear from appellant's statements what specific actions of the employing establishment could be found unreasonable under the circumstances. The Board also notes that the statements from the employing establishment indicate that appellant's actions may have contributed to any processing delays. A statement from a supervisor, Greg Shaw, indicated that appellant had been advanced more than 350 hours of sick leave and any confusion over the processing was due in part to the number of people appellant went to for resolution. A statement dated April 2, 1997 from A.M. Thurman, shop resource manager, indicated that administrative personnel and supervisors were interviewed, but it could not be found that appellant's leave was erroneously handled; it was noted that appellant had not properly followed the chain of command.

The Board finds that the record does not establish error or abuse in the handling of an administrative or personnel matter in this case.⁹ Appellant has, therefore, not established a compensable factor of employment as contributing to an emotional condition. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.¹⁰

⁸ *Anna C. Leanza*, 48 ECAB 115 (1996).

⁹ Any additional evidence submitted on appeal cannot be considered by the Board; only evidence that was before the Office at the time of its final decision may be reviewed on appeal. 20 C.F.R. § 501.2(c).

¹⁰ *See Margaret S. Krzycki*, 43 ECAB 496 (1992).

The decision of the Office of Workers' Compensation Programs dated June 4, 1998 is affirmed.

Dated, Washington, D.C.
March 27, 2000

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member