

history of depression and seasonal affective disorder dating back to 1992. It was not until September 24, 2000 that appellant began working for the employing establishment. She described her current condition as severe depression, anxiety, panic disorder, migraines and stress-induced asthma. Appellant also claimed that her employment affected her immune system, which resulted in frequent colds and infections. She identified October 2, 2002 as the date she first realized her employment activities had aggravated her condition. In November 2003, she was reassigned to the Providence, RI district office.²

Appellant attributed her condition to insufficient training and inadequate supervision. She explained that repeated requests for additional training were either refused or ignored. Although appellant was assigned a mentor to provide on-the-job training, the mentor was often too busy to provide the type of assistance she believed necessary. Because of the lack of training, her performance declined. Appellant's supervisor, District Manager Linda R. Wilcox, implemented a 90-day assistance plan in May 2003. She claimed that the assistance plan was nothing more than an audit of her performance, with only minimal time allotted for training. A management representative reportedly sat by her side at the reception area and monitored her performance, but did not assist appellant with her work.³ She found this embarrassing and the intense scrutiny contributed to appellant's anxiety and depression.

Appellant also alleged that she was ridiculed by her coworkers because of her need for assistance and training. Her colleagues allegedly stated that she was being coddled and accused her of ratting out other employees. Appellant also said that one coworker regularly made snide remarks and faces. On one occasion, this same coworker yelled at appellant, told her to leave the office kitchen and then pushed her when she did not leave. Appellant believed that management, particularly Ms. Wilcox, could have intervened on her behalf, but instead chose to do nothing.⁴ By not intervening, Ms. Wilcox allowed the situation to fester and evolve into a hostile work environment. Appellant said she felt alienated from her coworkers, which prompted her to request reassignment.

Another incident that allegedly contributed to appellant's condition was her receipt of a counseling letter from Ms. Wilcox in April 2003. The employing establishment was concerned that appellant had been abusing sick leave and Ms. Wilcox instructed her to provide medical documentation for her absences. Appellant stated that she used the leave because of her depression and panic attacks. She alleged disparate treatment on Ms. Wilcox's part because no other employees were asked to explain their absences. A second example of alleged disparate treatment was appellant's failure to receive a monetary award for 2002. She claimed to have been the only person in the office who did not get an award, despite having received a "satisfactory" rating.

² Appellant's physician and therapist recommended that she relocate from Pittsfield, MA to an area where she would be closer to friends and family. Although Providence, RI was not one of appellant's preferred locales, this was the only place where the employing establishment could accommodate her.

³ Part of appellant's duties as a service representative included work as the office receptionist.

⁴ Appellant wanted Ms. Wilcox to explain to her coworkers that she was in a new situation and needed time to learn the materials and receive training. She also believed that Ms. Wilcox should have informed them of her history of clinical depression.

Between June and September 2003, appellant was twice hospitalized because of her psychiatric condition and fear that she might harm herself. Her June 2003 hospitalization was directly related to her “working environment.”⁵ When appellant returned to work following her first hospitalization, Ms. Wilcox informed her that the assistance plan would be extended in light of her absence. Following the second hospitalization, Ms. Wilcox advised appellant that due to the lack of improvement under the assistance plan, she was being placed on a performance enhancement plan. Both incidents reportedly resulted in further deterioration of appellant’s psychiatric condition.

Ms. Wilcox indicated that appellant received four months of basic training before assuming her duties at the Pittsfield, MA office in February 2001.⁶ When she arrived, appellant was assigned a mentor. Ms. Wilcox also stated that appellant received additional training in May and June 2001. There were also opportunities for on-the-job training as the need arose. According to Ms. Wilcox, appellant’s mentor and the rest of the staff were available to assist her as needed. She also noted that appellant had a history of being absent from work for various medical reasons. Appellant informed Ms. Wilcox that she suffered from depression and Ms. Wilcox referred her to the Employee Assistance Program for counseling. Ms. Wilcox also indicated that appellant’s performance needed improvement and, therefore, she began to monitor appellant’s work in May 2003. Appellant, however, was absent from work for most of June and July 2003 because of what she described as stress caused by the work reviews. She requested and received 240 hours of advance sick leave, part of which she used to cover her absences due to a respiratory problem appellant claimed was stress related. Ms. Wilcox further stated that work reviews continued and appellant received the training she requested and believed necessary. She also noted that after an August 7, 2003 work review meeting, appellant left the office complaining that she was under too much stress to work.

About the claimed assault by a coworker, Ms. Wilcox indicated that she was on leave at the time, but was fully apprised of the situation when she returned to work. The incident involved appellant and Martha Henderson. Ms. Wilcox spoke with all parties involved and believed that the matter had been handled appropriately in her absence. Therefore, no further action was warranted. She also commented on her refusal to speak to the staff on appellant’s behalf. Ms. Wilcox explained that the employees were all adults and quite familiar with working with new employees. As such, that they did not need to be told how to treat appellant. Ms. Wilcox also believed that appellant should be the one to tell her colleagues about her personal situation. After appellant left Pittsfield, MA, she learned from some of her staff that appellant had engaged in insulting and hurtful behavior. While appellant characterized herself as a target of ridicule from the staff, it appeared that the employees had tried to get along with appellant despite some of the things she had done to them.

In a decision dated April 8, 2004, the Office denied appellant’s emotional condition claim because she did not establish any compensable employment factors.

⁵ Appellant was also treated in July 2003 for stress-related breathing difficulties.

⁶ Appellant missed several days of basic training because of personality conflicts with some of the other trainees. She shared the blame for the problems that arose during training and all of the parties involved received counseling from management.

On May 28, 2004 appellant filed a request for reconsideration. She noted that she continued to have panic attacks with severe migraines following her reassignment to the Providence, RI district office. Appellant eventually stopped working in February 2004.

By decision dated August 16, 2004, the Office denied appellant's request for reconsideration.

Appellant, through counsel, filed a request for reconsideration on April 7, 2005. Counsel argued that appellant's preexisting psychiatric disorder was aggravated by concern over her ability to adequately perform her regular job duties. Counsel represented that the record was full of documentation of appellant's feelings of being overwhelmed by the quality and quantity requirements of her job. Counsel also noted that appellant feared that she needed more training and was not able to adequately perform her job duties. These same concerns continued after appellant transferred to a new location. She reportedly had difficulty adjusting to the larger Providence, RI office. The pace there was much faster than in Pittsfield, MA and the lack of training continued to hamper her performance.

Counsel noted that appellant was chastised by the assistant district manager in a February 3, 2004 e-mail. According to the e-mail, appellant failed to process a particular death notice in a timely fashion. There were also approximately 40 death notices on her desk awaiting action. Appellant explained that the death notices on her desk were all done, but had not yet been filed. When she read the e-mail on February 4, 2004 she had a panic attack and left the office. Appellant saw her psychiatrist the following day. She was later charged with absence without leave (AWOL) for her February 4, 2004 departure. The request for reconsideration was accompanied by recent medical reports from appellant's psychiatrist, a copy of the February 3, 2004 e-mail and an October 12, 2004 grievance decision removing the AWOL charge. Although relief was granted, the grievance indicated that no violation occurred.

By decision dated September 15, 2005, the Office denied modification of the April 8, 2004 decision. The Office addressed the latest allegations regarding appellant's tenure in Providence, RI and found that she had not established any compensable work factors.

On September 14, 2006 appellant's counsel filed another request for reconsideration along with a recent medical report. Counsel argued that appellant's underlying psychiatric condition was aggravated and accelerated by the "quality and quantity requirements" of her day-to-day duties as a service representative and thus, was compensable. Counsel also argued that a confrontation with a supervisor involving criticism about the execution of appellant's job duties was compensable.

The Office again reviewed the merits of appellant's claim, but denied modification by decision dated March 27, 2007. The Office found that the record did not substantiate counsel's claim that appellant's condition was a result of her day-to-day job duties. It held that appellant's emotional reaction was due to various noncompensable administrative matters.

LEGAL PRECEDENT

To establish that she sustained an emotional condition causally related to factors of her federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that her emotional condition is causally related to the identified compensable employment factors.⁷

Workers' compensation law does not apply to each and every injury or illness that is somehow related to one's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless, does not come within the purview of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable.⁸ Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or hold a particular position.⁹ Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting her allegations with probative and reliable evidence.¹⁰ When the matter alleged represents a compensable factor of employment and the evidence of record establishes the truth of the matter, the Office must then base its decision on an analysis of the medical evidence.¹¹

ANALYSIS

Appellant alleged that she had not received sufficient training or adequate supervision. The record reveals that appellant received at least four months of basic training as a service representative and was assigned a mentor soon after she assumed her duties in February 2001. Ms. Wilcox stated that appellant received additional formal training in May and June 2001. Moreover, there were opportunities for on-the-job training as the need arose and the rest of the staff was available to assist appellant. The issue is not whether the training appellant received fully prepared her to carry out the duties of a service representative. The true issue is whether appellant's reaction to not receiving additional training is compensable. The answer to that particular question is no, it is not compensable. Appellant believed that she was not properly trained and she wanted additional training and supervision. The fact that she wanted more

⁷ See *Kathleen D. Walker*, 42 ECAB 603 (1991).

⁸ *Lillian Cutler*, 28 ECAB 125 (1976).

⁹ *Id.*

¹⁰ See *Kathleen D. Walker*, *supra* note 7.

¹¹ See *Norma L. Blank*, 43 ECAB 384, 389-90 (1992). Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

training and did not receive it is not compensable. An employee's frustration from not being permitted to work in a particular environment or hold a particular position is not compensable.¹²

Appellant took exception to Ms. Wilcox's decision to place her on an assistance plan followed by a formal performance enhancement plan. Ms. Wilcox's plan for addressing appellant's performance deficiencies is an administrative matter, which generally is noncompensable.¹³ An employee's emotional reaction to being placed on a performance improvement plan is not covered under the Act absent evidence of error or abuse.¹⁴ Moreover, monitoring work is an administrative function.¹⁵ Appellant's adverse reaction to what she described as "intense scrutiny" is not covered under the Act as she did not submit evidence to establish error or abuse on the part of Ms. Wilcox.

Although leave requests and attendance issues are generally related to the employment, they are administrative functions of the employer and not duties of the employee.¹⁶ Therefore, her reaction to being required to submit medical documentation to substantiate her use of sick leave is not compensable. Similarly, appellant's emotional reaction to being charged with AWOL in February 2004 is also not covered. While the charge was subsequently removed from her record, there is no evidence that the employing establishment either erred or acted abusively. The mere fact that a personnel action is subsequently modified or rescinded does not, by itself, establish error or abuse on the part of the employing establishment.¹⁷ It is noted that the October 12, 2004 grievance decision specifically found that there was "no violation."

Appellant also alleged that her coworkers harassed and alienated her and that she worked in a hostile environment. For harassment to give rise to a compensable disability there must be evidence that harassment occurred.¹⁸ A claimant's mere perception of harassment is not compensable.¹⁹ The allegations of harassment must be substantiated by reliable and probative evidence.²⁰ Appellant's allegations of harassment, alienation and a hostile work environment are vague and unsubstantiated. The only information she provided was that she had been accused of

¹² *Lillian Cutler*, *supra* note 8. For the same reason, appellant's presumed frustration from not being permitted to work at a location other than Pittsfield, MA or Providence, RI is also noncompensable. *Id.*

¹³ An employee's emotional reaction to administrative or personnel matters generally falls outside the scope of the Federal Employees' Compensation Act. *Andrew J. Sheppard*, 53 ECAB 170, 173 (2001). However, to the extent the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor. *Id.*

¹⁴ *Sherry L. McFall*, 51 ECAB 436, 439 (2000).

¹⁵ *Beverly R. Jones*, 55 ECAB 411, 416 (2004).

¹⁶ *Dinna M. Ramirez*, 48 ECAB 308, 313 (1997).

¹⁷ *Paul L. Stewart*, 54 ECAB 824, 829 (2003).

¹⁸ *Donna J. DiBernardo*, 47 ECAB 700, 703 (1996).

¹⁹ *Id.*

²⁰ *Joel Parker Sr.*, 43 ECAB 220, 225 (1991).

being coddled and ratting on other employees. One employee in particular, who appellant identified as the ring leader, regularly made snide remarks and faces. Her allegations lack specificity and, therefore, preclude a finding that the incidents occurred as alleged. Accordingly, the record does not contain any reliable and probative evidence of harassment.

Appellant did establish that she was involved in a physical altercation with a coworker, Ms. Henderson. However, there is no evidence that the pushing incident between appellant and Ms. Henderson was in any way related to appellant's specific employment responsibilities. Interactions that are not directly related to an employee's job duties will not be afforded coverage under the Act.²¹

Another incident that is too general to be considered compensable is appellant's allegation that she was the only person in the office who did not receive a monetary bonus in 2002. Year-end cash awards and bonuses are analogous to receiving a promotion, which is a personnel matter and generally not compensable.²² The record does not include sufficient factual information to determine whether appellant's alleged failure to receive a monetary bonus is compensable.

Complaints about the manner in which a supervisor performs her duties or the manner in which a supervisor exercises her discretion fall, as a rule, outside the scope of coverage provided by the Act.²³ This principle recognizes that a supervisor or manager in general must be allowed to perform her duties and employees will, at times, dislike the actions taken, but mere disagreement or dislike of a supervisory or managerial action will not be actionable, absent evidence of error or abuse.²⁴

Appellant disagreed with Ms. Wilcox's decision not to intervene on her behalf with other staff matters. She wanted Ms. Wilcox to explain to the staff that appellant was new and needed additional time and training to properly do her job. Appellant also wanted Ms. Wilcox to disclose her history of clinical depression to the staff. Ms. Wilcox did not believe this was either necessary or appropriate and thus, declined to speak to the staff about appellant's particular concerns. Appellant's emotional reaction to Ms. Wilcox's decision not to intervene on her behalf is not compensable. Mere disagreement is not compensable and appellant has not presented any evidence to suggest that Ms. Wilcox's inaction was either erroneous or abusive.

Appellant's emotional reaction to receiving the February 3, 2004 e-mail concerning the processing of death notices is also not compensable. Randolph R. Hurst, the author of the e-mail, pointed out that in one particular case an unnecessary payment had been disbursed to a deceased individual. Had appellant timely processed that particular death notice, the additional

²¹ *Paul L. Stewart, supra* note 17 at 833. But if Ms. Henderson had been appellant's supervisor, the pushing incident would likely be compensable regardless of whether it arose from a personal or job-related dispute. *See Fred Faber, 52 ECAB 107, 108-09 (2000).*

²² *Andrew J. Sheppard, supra* note 13.

²³ *Marguerite J. Toland, 52 ECAB 294, 299 (2001).*

²⁴ *Id.*

work and expense of retrieving the faulty payment would have been avoided. Mr. Hurst, the assistant district manager, also noted that he observed approximately 40 death notices on appellant's desk awaiting action. Some of these notices predated the particular case that was the subject of his e-mail. Appellant responded to Mr. Hurst's e-mail noting that the notices "were all done, but had not been filed."

Appellant believed she was falsely accused regarding the work that remained on her desk. This work was reportedly completed, but not filed. It is not clear from the record that appellant was responsible for filing the "completed" death notices that remained on her desk. While Mr. Hurst may have been mistaken about the status of the notices he observed on appellant's desk, she offered no specific explanation for the incident involving the overpaid decedent that was the primary subject of his February 3, 2004 e-mail. Thus, there is no proof that he was entirely wrong in criticizing appellant's handling of the death notices. Supervisory discussions regarding employee performance, including criticism and reprimands, are considered administrative matters and, therefore, are exempt from coverage absent a showing of error or abuse.²⁵ Appellant has not provided sufficient evidence of error or abuse such that her reaction to Mr. Hurst's February 3, 2004 e-mail would be compensable.²⁶

Counsel argued that appellant's current psychiatric condition was a result of her trying to meet the demands of her day-to-day job duties. This characterization, however, is inconsistent with the statements appellant provided the Office regarding the alleged employment incidents that aggravated her condition. Appellant did not identify any of her regular job duties as being responsible for her current condition. She did not specifically mention being affected by the "quality and quantity requirements" of her position, as counsel suggests was the case.

Counsel also argued that the timely processing of death notices was an "essential element" of appellant's job and, therefore, her emotional response to Mr. Hurst's February 3, 2004 e-mail should be compensable. While processing death notices was one of appellant's responsibilities, she did not complain about performing this particular aspect of her job. She complained about being wrongly accused of not having processed the death notices that remained on her desk. Appellant clearly reacted to the criticism and not to any of her regularly assigned duties. As discussed *infra*, her emotional reaction to Mr. Hurst's criticism is not compensable. The record reflects that appellant attributed her current psychiatric condition to several administrative and personnel matters, which are noncompensable. Accordingly, the Office properly denied appellant's emotional condition claim.

²⁵ *Roger W. Robinson*, 54 ECAB 846, 852 (2003).

²⁶ Counsel's characterization of the February 3, 2004 e-mail as a "confrontation with a supervisor" and, therefore, compensable is not persuasive. Verbal altercations and difficult relationships with supervisors, when sufficiently detailed and supported by the record, may constitute compensable factors of employment. *Marguerite J. Toland*, *supra* note 23. However, the subject matter and tenor of the February 3, 2004 e-mail exchange does not even approach the level of compensable verbal abuse.

CONCLUSION

Appellant has not established that she sustained an emotional condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the March 27, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 18, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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