

MSPB Empowers Fed Employees Threatened or Intimidated by Customers

By Ryan C. Green, Esq.

The U.S. Merit Systems Board (MSPB)

recently decided a case on the constructive suspension doctrine. The decision provides greater protections for those federal employees who have been threatened or intimidated by customers and other members of the general public.

In November 2011, the MSPB

issued its decision in *Moore v. U.S. Postal Service*

. In this case, Carol Moore, a postmaster in Diamond, Ohio, alleged she was being stalked at work by a non-Agency employee. She claimed the Agency refused to reassign her to safer work environment, which forced her to take leave from her intolerable work environment.

Ms. Moore, who generally worked alone at the post office, notified her supervisor that a customer was stalking her. On one occasion, the customer went to the post office, absent legitimate business, to stare at Ms. Moore. On another occasion, the stalker followed her 15 miles to a Home Depot parking lot.

In response to her complaint, the Agency banned the individual from the Diamond Post Office. Ms. Moore, who suffered from post traumatic stress disorder (PTSD) because of these incidents, alleged that the Agency's corrective actions were inadequate. As a remedy, she requested a transfer to another post office and provided the Agency with documentation from her psychologist, who detailed the PTSD diagnosis and recommended the reassignment.

Ms. Moore appealed her use of leave to the MSPB

. An administrative judge dismissed for lack of jurisdiction. The full Board, however, held Moore's complaint constituted a non-frivolous allegation of an involuntary absence from duty because she put the Agency on notice and requested remedial action from the Agency.

The Moore

decision empowers threatened or intimidated federal employees by allowing them to challenge agency inaction, when forcing employees to take leave because of intolerable conditions. Federal employees should not feel unsafe at work. If they do, and their employer fails to adequately respond to such concerns, the employee should immediately contact a federal employment lawyer.

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