United States Department of Labor
Employees' Compensation Appeals Board

P.R., Appellant	)	
and	)	**Docket No. 14-346**
	)	**Issued: September 3, 2014**
U.S. POSTAL SERVICE, POST OFFICE, Kansas City, MO, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On December 3, 2013 appellant, through her attorney, filed a timely appeal from a September 26, 2013 Office of Workers' Compensation Programs' (OWCP) merit decision denying her claim for an employment-related injury. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained an emotional condition in the performance of duty.

On appeal, counsel contends that OWCP's decision was contrary to fact and law.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On November 30, 2011 appellant, then a 55-year-old postmaster, filed an occupational disease claim (Form CA-2) alleging that she sustained high blood pressure, anxiety and depression due to factors of her federal employment.[2] She stated that her total body was affected as she was unable to see a physician or dentist to address her health issues because the employing establishment did not hire someone to fill a postmaster relief (PMR) position that had been vacated since April 2010. Appellant further alleged inhumane treatment at the employing establishment.

Appellant submitted a September 21, 2011 magnetic resonance imaging (MRI) scan of the right knee, which revealed osteoarthritis, chondromalacia and degenerative changes.

In a January 4, 2012 report, Dr. John B. Wood, a Board-certified orthopedic surgeon, diagnosed left knee degenerative arthritis. He listed that appellant was a postmaster and injured her knee on November 30, 2004 after slipping on an icy dock. On January 11, 2012 Dr. Wood diagnosed degenerative arthritis involving both knees, the right knee more severe than the left. He opined that appellant was capable of working full duty.

In a January 24, 2012 letter, the employing establishment controverted appellant's claim on the basis that her complaints were preexisting conditions, which she had before reassignment to her present position of postmaster. It stated that it was the responsibility of the postmaster to hire a PMR, who worked in their absence and, therefore, "[appellant's] complaint of not having a PMR [was] due to her own inactions of not hiring one." On August 12, 2011 Michael Beasley was sent to appellant's office to perform a financial audit. Appellant was 20 minutes late arriving to work that morning, brought her dog with her to work and had taken the cash and stamp stock home with her the previous night which was against the rules. Mr. Beasley stated that appellant wished to be fired from the employing establishment and shortly after the audit her manager, Terri Ryan, visited the employing establishment and found it to be dirty with rotting fruit on the counters.

A January 20, 2012 e-mail message from Ms. Ryan indicated that when she arrived at appellant's duty station it was "absolutely disgusting, with rotting fruit on the counters and trash stacked everywhere." She told appellant that the conditions were unacceptable. Appellant started crying, telling Ms. Ryan that she was sick of the employing establishment and did not care what Ms. Ryan did to her regarding her job because she really did not care.

In a February 24, 2012 letter, OWCP notified appellant of the deficiencies of her claim. It afforded her 30 days to submit additional evidence and respond to its inquiries. Appellant submitted a September 12, 2011 audiological report from Dr. Robert Mareing, an otolaryngologist, who found-mild-to moderate sensorineural hearing loss in the left ear.

In an April 25, 2006 report, Dr. Eugene Clarke, a dentist, indicated that appellant was under extreme duress causing excessive grinding and occlusal trauma to the dentition.

[2] Appellant also has a number of traumatic injury claims under OWCP File Nos. xxxxxx715 (right shoulder), xxxxxx350 and xxxxxx631 (right knee) and xxxxxx481 (left knee).

On May 19, 2006 Dr. Joseph Renner, a dentist specializing in periodontics, diagnosed chronic periodontal disease. He advised appellant to attend six-month periodontal maintenance appointments. He opined that she would not be incapacitated due to her condition.

In an August 12, 2011 letter to Ms. Ryan, Mr. Beasley reported that he had conducted a financial audit at appellant's duty station that day. Appellant had been on leave for four days prior and was returning that day. She did not arrive until 7:20 a.m. and brought her dog to work. Appellant retrieved from her car the daily stamp stock record book and her stamp/cash box that contained the assigned stamp stock. Mr. Beasley introduced himself and told her the purpose of his visit. He asked appellant why she had the stamp/cash stock with her and she stated that, the box would not lock, there was no room in the safe to keep it separate and she did not want it accessible to the borrowed PMR that had worked the last four days. Appellant was late to work because she had been seeing a counselor until late the night before and had not arrived home until 1:00 a.m. She spoke about being fed up with the employing establishment and her wish to be fired.

In a March 17, 2012 statement, Joy Kelley noted that in September 2010 she visited with appellant in the lobby of her duty station. She saw and commented on an advertisement for a PMR posted on the lobby wall.

In a March 18, 2012 statement, Richard Lewis advised that appellant tried her best as postmaster to maintain service under any conditions, rain or snow. Appellant posted the PMR position and tried to hire someone, but everyone interviewed was turned down, which led to stress and the deterioration of her health.

In a March 19, 2012 statement, Angela Dilday, a PMR, noted that appellant called her regarding her problems with finding a PMR to work in her place for physician's appointments, *etc.*

In a narrative statement dated March 19, 2012, appellant indicated that she was micromanaged at work in an attempt to harass her into quitting or taking early retirement.

In a March 22, 2012 statement, Teresa Cook advised that appellant notified her of the open PMR position. She applied for the position and was interviewed, but was not selected.

On May 14, 2012 Dr. Wood stated that appellant was seen for her left and right knees. Appellant had pain in the knees and other conditions, included hearing loss with fluid behind her ear, right shoulder pain, anxiety and depression. Dr. Wood opined that the degenerative arthritis in her knees was work related. He found that appellant was capable of working full time with the following restrictions: no lifting or carrying greater than 30 pounds; no standing or walking greater than six hours per day not to exceed more than two hours at a time. On June 25, 2012 Dr. Wood indicated that she had seen an improvement in her overall ability to stand and walk. Appellant still had a moderate degree of discomfort. Dr. Wood reiterated his work restrictions and recommended further physical therapy.

In an undated narrative statement, Ms. Ryan reported that she had received a call from appellant asking about coverage from August 8 to 11, 2011 so that she could go to the dentist and a physician. On August 4, 2011 she was doing one-on-ones with the postmasters of possible

discontinuance offices. When Ms. Ryan arrived at appellant's duty station, she told appellant that the condition of her office was unacceptable. Appellant complained about Tony Charles and Dan Strauss for sending someone in to clean her office in the summer 2010. Ms. Ryan stated that she would find someone to work for appellant from August 8 to 11, 2011. She noted that August 4, 2011 was a Thursday and she expected the office to be clean and free of trash and rotten food before close of business on Friday. When Mr. Beasley visited on August 12, 2011 the office had been straightened up but was still not in an acceptable condition. On the night of August 14, 2011 appellant called Ms. Ryan at approximately 9:00 p.m. and told her that she was not going to be at work on Monday morning. She had just left her physician and he had given her a note to be off work until further evaluation. Appellant wanted to let Ms. Ryan know that she was not going to find someone to work at her office as it was not her responsibility. She stated that it was Ms. Ryan's job to find a replacement. Ms. Ryan stated that this was improper conduct for a postmaster and, in fact, it was appellant's responsibility to help and assist to locate a replacement and calling her on a Sunday night and giving her demands was unacceptable behavior.

In an e-mail correspondence dated May 24, 2012, Victoria Wyatt noted that Mr. Strauss asked her to cover for appellant for one week while she took some time off in the summer 2010. When she arrived at the office, the smell was unbearable, every surface was piled high with personal mail, decorative items, shoes, clothing, personal toiletry items and food. Mr. Strauss instructed Ms. Wyatt to clean up as best as she could and store away appellant's personal items so she could take them home on Monday.

In a June 6, 2012 report, Julie O'Donnell, a licensed clinical professional counselor, advised that appellant was self-referred on August 15, 2011. She stated that appellant was applying for compensation due to her pain disorder exaggerated by psychological stressors brought on by her treatment as an employee of the employing establishment. Appellant was denied adequate time off work to attend to her medical and personal needs. She was punished the two times she was granted leave, finding items missing from her office that were thrown out by a PMR while she was gone. Ms. O'Donnell stated that appellant demonstrated symptoms of post-traumatic stress disorder, panic attacks and major depressive disorder causally related to her federal employment. She opined that these psychiatric conditions not only interfered with her ability to perform her duties, but also negatively affected her health by increasing her blood pressure to dangerous levels, precipitating her difficulties with asthma and producing constant muscle tension leading to a return of Temporo-Mandibular Joint disorder, leg spasms, back spasms and postural vertigo.

By decision dated July 23, 2012, OWCP denied appellant's claim finding that the evidence did not establish an emotional condition arising from a compensable factor of employment. It accepted that the following events occurred, but were not factors of her federal employment: (1) Mr. Beasley conducted an audit on August 12, 2011 and found several irregularities; (2) Ms. Wyatt cleaned and rearranged appellant's office at the direction of Mr. Strauss when she worked there in her absence in the summer 2010; and (3) appellant had to contact her congressman to get the Chicago OWCP to respond to issues regarding her accepted knee claims. OWCP further found that the following alleged incidents did not occur: (1) inhumane treatment by the employing establishment; (2) the employing establishment was deliberately trying to get appellant out of her office so it could be closed permanently and

Mr. Strauss allowed Ms. Wyatt to micromanage, harass and intimidate her into taking early retirement or quitting so that she could have her office; (3) Ms. Wyatt disposed of items necessary to the operation of appellant's office as well as personal items when she cleaned and rearranged the office in the summer 2010; and (4) appellant was unable to attend medical appointments to maintain her health because no one was hired as the PMR after the last individual who held that position quit in April 2010 despite several interviews being held and interested being expressed in the position.

On May 15, 2013 appellant, through her attorney, requested reconsideration. She submitted a May 15, 2013 statement from Ms. Kelley, noting her belief that appellant was a victim of concentrated abuse at the employing establishment, which resulted in her emotional and physical deterioration. Appellant also submitted a statement from her daughter dated July 17, 2013 and a narrative statement dated July 19, 2013 reiterating her claims. She also submitted an undated narrative statement that she used annual leave for her time off for the period August 8 to 11, 2011. In a July 23, 2012 e-mail message, Denise Moyer verified that appellant used 32 hours of annual leave during the period claimed.

In a May 24, 2013 statement, Valerie Francis reported that appellant contacted her for relief help on numerous occasions in 2010 and 2011 after her PMR quit in the spring 2010. Appellant also called to tell Ms. Francis that Ms. Wyatt had thrown away items necessary to operate the office, including "[Sarbanes-Oxley Act] (SOX)" information, when she had subbed for appellant in August 2010.

In a June 20, 2013 statement, Carol Hartman advised that appellant called to tell her that Ms. Wyatt had subbed for her in August 2010 and threw away her SOX report information and training. She also stated that Ms. Wyatt had moved or thrown away necessary items and janitorial supplies for the operation of her office. Ms. Hartman stated that she understood Ms. Wyatt had either thrown away or moved items at her own office in Eunice, Missouri and spent endless wasted time looking for these items. She alleged that neither she nor appellant could get assistance for relief help.

In an undated report, Vanessa Broussard, a licensed clinical social worker, opined that appellant experienced a significant amount of stress and anxiety leading to distress that was likely to lead to dysfunctional behavior in the future if not addressed. She recommended that time be made available for appellant to schedule and participate in therapeutic sessions on a weekly basis.

In a June 12, 2012 report, Dr. Karen Strack, a Board-certified family practitioner, reviewed appellant's medical history and indicated that it was her understanding that appellant "was not allowed to close the [employing establishment] and leave and go on these medical appointments as needed." She stated that appellant's constellation of problems led to yet another issue, which was depression and anxiety as she saw her health wane and feelings of hopelessness and helplessness to take care of medical issues which could be addressed. Dr. Strack indicated that the depression had worsened and the frustration with her work situation added to the depression. On December 12, 2012 she stated that "[appellant] felt that working six days a week without being able to take time off for healthcare issues also represented a type of harassment and she was not given the respect and human consideration of being allowed to do those things

on her own." Appellant also reported that, one of her customers had died and when she went out to check on him, she found that he had hung himself. Dr. Strack diagnosed degenerative joint disease, bilateral knees; lateral-riding patella, right; iliotibial band syndrome, right; post-traumatic stress disorder; depression; and hypertension. On April 2, 2013 she indicated that appellant had traumatic injury claims for her right shoulder, right knee and left knee and opined that she had not reached maximum medical improvement.

By decision dated September 26, 2013, OWCP denied modification of its July 23, 2012 decision.

LEGAL PRECEDENT

In providing for a compensation program for federal employees, Congress did not contemplate an insurance program against any and every injury, illness or mishap that might befall an employee contemporaneous or coincidental with his or her employment. Liability does not attach merely upon the existence of an employee-employer relation. Instead, Congress provided for the payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.[3] The phrase while in the performance of duty has been interpreted by the Board to be the equivalent of the commonly found prerequisite in workers' compensation law of arising out of and in the course of employment.

In *Lillian Cutler*,[4] the Board noted that workers' compensation law is not applicable to each and every injury or illness that is somehow related to an employee's employment. There are situations when an injury or illness has some connection with the employment but nonetheless does not come within the coverage of workers' compensation as they are found not to have arisen out of the employment. When an employee experiences emotional stress in carrying out his or her employment duties or has fear and anxiety regarding his or her ability to carry out his or her duties and the medical evidence establishes that the disability resulted from his or 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. This is true when the employee's disability resulted from his or her emotional reaction to his or her day-to-day duties. The same result is reached when the emotional disability resulted from the employee's emotional reaction to a special assignment or requirement imposed by the employing establishment or by the nature of the work.[5]

In contrast, a disabling condition resulting from an employee's feelings of job insecurity *per se* is not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of FECA. Thus, disability is not covered when it results from an employee's fear of a reduction-in-force, unhappiness with doing inside work, desire for a different job, brooding over the failure to be given work he or she desires or the employee's frustration in not being

[3] *See* 5 U.S.C. § 8102(a).

[4] 28 ECAB 125 (1976).

[5] *Id.* at 130.

permitted to work in a particular environment or to hold a particular position.[6] Board case precedent demonstrates that the only requirements of employment which will bring a claim within the scope of coverage under FECA are those that relate to the duties the employee is hired to perform.[7]

To the extent that disputes and incidents alleged as constituting harassment by coworkers are established as occurring and arising from a claimant's performance of his or her regular duties, these could constitute employment factors.[8] However, for harassment to give rise to a compensable disability under FECA there must be evidence that harassment did, in fact, occur. Mere perceptions of harassment are not compensable under FECA.[9]

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.[10] However, the Board has held that where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.[11] In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.[12]

A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by employment factors.[13] This burden includes the submission of a detailed description of the employment factors or conditions, which believes caused or adversely affected a condition for which compensation is claimed and a rationalized medical opinion relating the claimed condition to compensable employment factors.[14]

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable work factors of employment and are to be considered by a physician when

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[6] *See Lillian Cutler*, *supra* note 4.

[7] *See Anthony A. Zarcone*, 44 ECAB 751 (1993).

[8] *See David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, 42 ECAB 603, 608 (1991).

[9] *See Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

[10] *See Matilda R. Wyatt*, 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

[11] *See William H. Fortner*, 49 ECAB 324 (1998).

[12] *See Ruth S. Johnson*, 46 ECAB 237 (1994).

[13] *See Pamela R. Rice*, 38 ECAB 838, 841 (1987).

[14] *See Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

providing an opinion on causal relationship and which working conditions are not deemed compensable factors of employment and may not be considered.[15] If a claimant does implicate a factor of employment, OWCP should then consider whether the evidence of record substantiates that factor. As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim; the claim must be supported by probative evidence.[16] Where the matter asserted is a compensable factor of employment and the evidence of record established the truth of the matter asserted, OWCP must base its decision on an analysis of the medical evidence.[17]

The Board has held that a variety of work factors are compensable under FECA. Among them, overwork is a compensable factor of employment if appellant submits sufficient evidence to substantiate this allegation.[18] Also, in certain circumstances, working overtime is sufficiently related to regular or specially assigned duties to constitute a compensable employment factor.[19] Additionally, conditions related to stress resulting from situations in which an employee is trying to meet his or her position requirements are compensable.[20]

ANALYSIS

Appellant alleged that she sustained emotional conditions with consequential total body and high blood pressure issues due to being overworked, as well as a pattern of micromanagement and harassment, creating a hostile work environment. OWCP found these to be noncompensable employment factors. Therefore, the Board must review whether the alleged incidents are covered employment factors under FECA.[21]

OWCP accepted that the following events occurred, but are not factors of appellant's federal employment: (1) Mr. Beasley conducted an audit on August 12, 2011 and found several irregularities; (2) Ms. Wyatt cleaned and rearranged appellant's office at the direction of Mr. Strauss when she worked there in her absence in the summer 2010; and (3) appellant had to contact her congressman to get the Chicago OWCP to respond to issues regarding her accepted knee claims. In regards to Mr. Beasley's August 12, 2011 audit, the Board has held that investigations are an administrative function of the employing establishment that do not involve an employee's regularly or specially assigned employment duties and are not considered to be employment factors.[22] Similarly, Ms. Wyatt's duties in the summer 2010 pertain to an

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[15] *See Dennis J. Balogh*, 52 ECAB 232 (2001).

[16] *See Charles E. McAndrews*, 55 ECAB 711 (2004).

[17] *See Jeral R. Gray*, 57 ECAB 611 (2006).

[18] *See Bobbie D. Daly*, 53 ECAB 691 (2002).

[19] *See Ezra D. Long*, 46 ECAB 791 (1995).

[20] *See Trudy A. Scott*, 52 ECAB 309 (2001).

[21] *See P.E.*, Docket No. 14-102 (issued April 1, 2014).

[22] *See Jimmy B. Copeland*, 43 ECAB 339, 345 (1991).

administrative matter and the Board finds that Mr. Strauss did not act unreasonably in directing her to clean and rearrange appellant's office. Finally, appellant's decision to contact her congressperson regarding her accepted knee claims is not a factor of her federal employment. The evidence is insufficient for the Board to find any improper motive to warrant error or abuse in these matters. Therefore, appellant has not met her burden of proof.

OWCP further found that the following alleged incidents did not occur: (1) inhumane treatment by the employing establishment; (2) the employing establishment was deliberately trying to get appellant out of her office so it could be closed permanently and Mr. Strauss allowed Ms. Wyatt to micromanage, harass and intimidate her into taking early retirement or quitting so that she could have her office; (3) Ms. Wyatt disposed of items necessary to the operation of appellant's office as well as personal items when she cleaned and rearranged the office in the summer 2010; and (4) appellant was unable to attend medical appointments to maintain her health because no one was hired as the PMR after the last individual who held that position quit in April 2010 despite several interviews being held and interested being expressed in the position.

Appellant attributed her emotional conditions to inhumane treatment at the employing establishment. A claimant must establish a factual basis for his or her allegations with probative and reliable evidence.[23] Appellant did not submit probative evidence, such as witness statements, corroborating her allegations of inhumane treatment. The absence of such documentation diminishes the validity of her contentions in this case, where there is no evidence to document that she was treated inhumanely by the employing establishment. Thus, appellant has failed to establish a compensable factor of employment.[24]

Appellant also attributed her emotional conditions to a deliberate attempt to get her out of her office so it could be closed permanently. She alleged that Mr. Strauss allowed Ms. Wyatt to micromanage, harass and intimidate her in order to compel early retirement or quitting. The Board has held that a manager or supervisor must be allowed to perform their duties and that employees will disagree with actions taken. Mere disagreement or dislike of actions taken by a supervisor will not be compensable absent evidence establishing error or abuse.[25] An employee's reaction to an administrative or personnel matter is not covered under FECA, unless there is evidence that the employing establishment acted unreasonably.[26] Because appellant has not presented sufficient evidence to establish that, Ms. Wyatt harassed or intimidated her, Mr. Strauss acted unreasonably or that the employing establishment engaged in error or abuse, appellant has failed to identify a compensable work factor.

Appellant further attributed her emotional conditions to Ms. Wyatt's disposal of items necessary to the operation of her office as well as personal items when she cleaned and rearranged the office in the summer 2010. In a May 24, 2013 statement, Ms. Francis reported

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[23] *Supra* note 13.

[24] *See H.C.*, Docket No. 12-457 (issued October 19, 2012).

[25] *Linda Edwards-Delgado,* 55 ECAB 401 (2004).

[26] *See Alfred Arts*, 45 ECAB 530 (1994).

that appellant called to tell her that Ms. Wyatt had thrown away items necessary to operate the office, including SOX information, when she had subbed for appellant in August 2010. In a June 20, 2013 statement, Ms. Hartman indicated that appellant called to tell her that Ms. Wyatt had subbed for her in August 2010 and threw away her SOX report information and training. She also stated that Ms. Wyatt had moved or thrown away necessary items and janitorial supplies for the operation of her office. Ms. Hartman stated that she understood as Ms. Wyatt had either thrown away or moved items at her own office in Eunice, Missouri and she spent endless wasted time looking for these items. The Board has held that mere allegations, in the absence of factual corroboration, are insufficient to meet a claimant's burden of proof.[27] Appellant's perceptions must be construed to be self-generated. Ms. Francis merely reiterated appellant's allegations and while Ms. Hartman referred to a similar incident in her own office, she was not present during the encounter between appellant and Ms. Wyatt and her depictions rely on appellant's representations, which are not corroborated by evidence of record. As appellant failed to provide evidence to establish a compensable factor of employment, the Board finds that she has not met her burden of proof.

Appellant attributed her emotional conditions to her inability to attend medical appointments to maintain her health because no one was hired as the PMR after the last individual who held that position quit in April 2010 despite several interviews being held and interest being expressed in the position. This pertains to an administrative matter. The standard under *McEuen* is whether the evidence of record establishes error or abuse by the employing establishment.[28] In a January 24, 2012 letter, the employing establishment indicated that it was the responsibility of the postmaster to hire a PMR who worked for them in their absence and, therefore, "[appellant's] complaint of not having a PMR [was] due to her own inactions of not hiring one." Further, the record establishes that Ms. Wyatt covered for appellant for one week while she took some time off in the summer 2010 and appellant used annual leave for her time off for the period August 8 to 11, 2011. In a July 23, 2012 e-mail message, Ms. Moyer corroborated appellant's statement and stated that she used 32 hours of annual leave during the period claimed. There is no evidence to establish that appellant was unable to attend medical appointments to maintain her health because no one was hired as the PMR after April 2010. The Board finds that she has not submitted sufficient evidence to support that the employing establishment acted erroneously or abusively regarding her leave requests or the hiring of a PMR. Thus, appellant has not established a compensable work factor.

Furthermore, it is unnecessary to address the medical evidence of record as appellant has failed to establish a compensable factor of employment.[29]

On appeal, counsel contends that OWCP's decision was contrary to fact and law. Based on the findings and reasons stated above, the Board finds the attorney's arguments are not substantiated.

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[27] *See Bonnie Goodman*, 50 ECAB 139 (1998).

[28] *See McEuen*, *supra* note 10.

[29] *See Garry M. Carlo*, 47 ECAB 299, 305 (1996).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained an emotional condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the September 26, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 3, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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