

reasons unknown.” Appellant stopped work in November 2004 and returned to work on February 7, 2005.

By letter dated March 9, 2005, the Office requested additional information from appellant, including a detailed statement describing the work incidents she deemed stressful and a comprehensive medical report from her attending physician. The Office provided her 30 days within which to submit the requested information.

In a report dated March 4, 2005, Dr. Stephen F. Vobach, a Board-certified psychiatrist, diagnosed “a history of depression since November 2004.” He noted that she related a history of conflicts with coworkers and opined that it was “certainly possible that this has aggravated her depression and anxiety.”

In a decision dated April 11, 2005, the Office denied appellant’s claim on the grounds that she failed to establish an emotional condition as alleged.

LEGAL PRECEDENT

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 an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers’ compensation. Where the disability results from an employee’s emotional reaction to her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees’ Compensation Act.¹ On the other hand, the disability is not covered where it results from such factors as an employee’s fear of a reduction-in-force or her frustration from not being permitted to work in a particular environment or to hold a particular position.²

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 employment factors.³ This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁴

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed

¹ 5 U.S.C. §§ 8101-8193.

² See *Roger Williams*, 52 ECAB 468 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

³ *Claudia L. Yantis*, 48 ECAB 495 (1997).

⁴ *Roger Williams*, *supra* note 2.

factors of employment and may not be considered.⁵ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁶

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.⁷ However, for harassment to give rise to a compensable factor of employment there must be evidence that the harassment did, in fact, occur.⁸ Unsubstantiated allegations of harassment of discrimination are not determinative of whether such harassment or discrimination occurred. To establish entitlement, the claimant must establish a factual basis for the claim by supporting her allegations with probative and reliable evidence.⁹

ANALYSIS

On her claim form, appellant generally asserted that her condition was caused by constant harassment. 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.¹⁰ For harassment to give rise to a compensable factor of employment, however, there must be evidence that the harassment did, in fact, occur. To establish entitlement, the claimant must establish a factual basis for the claim by supporting her allegations with probative and reliable evidence.¹¹ In this case, appellant did not describe the actions which she alleged constituted harassment or submit any factual evidence substantiating harassment and thus has not established a compensable employment factor.

Appellant failed to provide a description of the specific employment factors which she maintained caused her major depression and anxiety. The Office advised appellant in its March 9, 2005 letter of the need to submit a detailed factual statement describing the employment incidents alleged to have caused her emotional condition; however, she did not submit such a statement. A claimant's burden of proof includes the submission of a detailed description of the employment factors or conditions which he or she believes caused or adversely affected the condition or conditions for which compensation is claimed.¹² As appellant failed to

⁵ *Dennis J. Balogh*, 52 ECAB 232 (2001).

⁶ *Id.*

⁷ *Ernest J. Malagrida*, 51 ECAB 287 (2000).

⁸ *Helen P. Allen*, 47 ECAB 141 (1995).

⁹ *Sherman Howard*, 51 ECAB 387 (2000).

¹⁰ *Ernest J. Malagrida*, *supra* note 7.

¹¹ *Sherman Howard*, *supra* note 9.

¹² *Janet L. Terry*, 53 ECAB 570 (2002); *John Polito*, 50 ECAB 347 (1999).

specifically identify the factors to which she attributed her claimed conditions of major depression and anxiety, she has failed to establish an essential element of her claim.

On appeal, appellant described employment incidents which she alleged constituted harassment. The Board, however, has jurisdiction to review only the evidence that was before the Office at the time of its final decision.¹³

CONCLUSION

The Board finds that appellant has failed to establish that she sustained an emotional condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 11, 2005 is affirmed.

Issued: October 11, 2005
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

¹³ 20 C.F.R. § 501.2(c). Appellant may submit additional evidence to the Office with a request for reconsideration under 5 U.S.C. § 8128(a).