

FACTUAL HISTORY

On December 26, 2013 appellant, then a 46-year-old military pay technician, filed a traumatic injury claim alleging that on December 18, 2013 she suffered an anxiety attack due to a verbal confrontation with the lead technician. She stopped work on December 18, 2013.

In a December 18, 2013 statement, Judith A. Rucker, a branch manager, stated that appellant came to her office that day around 9:00 a.m. crying and hyperventilating. She took appellant into her back office, where she told appellant to calm down and breathe slowly. After a couple of minutes, Ms. Rucker fixed appellant a cup of tea and asked her what happened. Appellant told Ms. Rucker that Shirley Parnell, her lead in the Reserve Pay section had just embarrassed her in front of her coworkers. Ms. Parnell stated that she had some of appellant's work that was done incorrectly and she was not going to continue to fix her work. She told appellant to leave and go to another worksite. Appellant complained that Ms. Parnell could have taken her aside to tell her this privately instead of letting others in the section know what was going on. She also complained that Ms. Parnell could have just told her how to fix her mistakes.

Once appellant calmed down, Ms. Rucker informed a Ms. McGahee what was going on and Ms. McGahee told her to assign appellant to the processing section. When she told appellant of her new assignment appellant began to cry and breathe hard, and stated that her chest was hurting. Ms. Rucker told Ms. McGahee that appellant's chest was hurting and also called Defense Finance and Accounting Service (DFAS) whose representative was informed to take appellant to a physician. The DFAS representative also sent a Form CA-16 for appellant's supervisor to fill out. However, since appellant's supervisor and branch manager were out of the office, Ms. Rucker signed the form, as she is a branch manager. She then took appellant to the emergency room at Metroplex Hospital in Killeen, Texas. The emergency room physician told appellant that she could return to work the next day and prescribed her with a three-day prescription. Ms. Rucker and appellant returned to work with a copy of the CA-16 form and appellant then left work to fill her prescription and go home.

In a December 18, 2013 statement, Timothy L. Ryan, a coworker, stated that he was present for some of the discourse that occurred between Ms. Parnell and appellant that day. From what he heard, Ms. Parnell had approached appellant regarding a continuing problem with the administrative paperwork requirements necessary to process leave matters that she had been working on. Under Ms. Parnell's direction, Mr. Ryan indicated that he also had been working to correct similar errors appellant created. He stated that Ms. Parnell was attempting to explain to appellant that she was still distributing the paper components incorrectly when she became confrontational and interrupted Ms. Parnell by stating, "before you start blaming me" in a loud and abrasive tone. This caused Ms. Parnell to conclude her discourse with appellant and direct her to proceed to another site. After a few minutes, appellant quickly departed the office.

In a December 23, 2013 statement, Ms. Parnell, appellant's supervisor and lead technician, indicated that on December 18, 2013 appellant came to work agitated about something and was talking rather loudly to Felicia D. Porcher, a coworker about it. At approximately 8:45 a.m., appellant stated that paperwork was missing from some of the packets she was coding. Ms. Parnell went to appellant's desk to see where the paperwork might be and asked Ms. Porcher if she had made any errors, but she replied "no." When she looked at

appellant's desk, the missing papers were in a stack, which appellant stated that she did not need, so she was removing them from the packets. Ms. Parnell stated that this was not the standard procedure and appellant had been trained and retrained numerous times on how to code and make the required copies. She noted for appellant which documents were required for each packet so that she could use it as a reference and not get confused. After Ms. Parnell started to help appellant correct the errors, appellant stated that she did not want to be blamed for the mistake and tried to defend her actions, in a loud and disrespectful tone of voice. She told appellant that she did not have time for her attitude and that she could work at a different site today. Ms. Parnell stated that the other site needed help and working there would give appellant some time to cool off. At 9:48 a.m., she called the other site to see if appellant had shown up, but she was told that appellant had not reported there yet. Ms. Parnell indicated that, after researching the packets that was in error, she discovered that appellant had made copies of the missing paperwork and placed it in the leave suspense file. Appellant, however, had stated that she had received the packets without the right paperwork and forgot that she had made copies of it in the few minutes prior to telling Ms. Parnell that it was missing.

Ms. Parnell further stated that the history behind this incident started in the last week or two. She indicated that she discovered that almost all the packets that appellant had processed had been missing paperwork. Ms. Parnell let appellant spend an entire day trying to correct the errors, but appellant was not getting anywhere and was getting agitated that she had to make the corrections. Appellant indicated that she started making copies of some of the missing documents the previous day so that they could be properly coded, and that she still had an entire stack that needed copies made of the missing documents.

Appellant submitted a personal Form SF-50, which indicated that, effective January 14, 2013, her Veteran's preference had been updated. A position description was also provided for military pay technician.

A work release form dated December 18, 2013 was provided, which released appellant to return to work on December 19, 2013, with no restrictions. The release was signed by someone named Alyce at the Metroplex Health System Emergency Departure whose last name was illegible.

In a December 19, 2013 prescription, Dr. Helen Zaphiris, a Board-certified psychiatrist, stated that appellant was being treated for a medical problem and was being prescribed medication. She stated that appellant would need to be away from work until January 2, 2014 or until evaluation.

In a December 30, 2013 note, Dr. Zaphiris stated that appellant was continuing treatment at the Veterans Administration Hospital in Temple, Texas and just began psychotropic medication. She estimated that appellant would need at least three more weeks off from work to begin recovery of her major depressive disorder. Dr. Zaphiris noted that appellant was given Family Medical and Leave Act papers. She recommended that appellant's worksite be transferred to a different building from where the November 2009 shootings occurred as she continued to have significant post-traumatic symptoms connected to that event, which contributes to her depression. Dr. Zaphiris stated that appellant would benefit from having the

reassignment occur now so she would know where she will be returning to work and not have the stress of thinking she will be returning to the site of the trauma.

In a January 8, 2014 letter, OWCP advised appellant of the deficiencies in her claim and requested additional factual and medical evidence, including a narrative medical report from her physician which included the physician's opinion supported by a medical explanation regarding the cause of her emotional condition. Appellant was provided 30 days to submit the requested information. By letter also dated January 8, 2014, OWCP requested additional information from the employing establishment.

In a January 10, 2014 response to OWCP's questionnaire, appellant stated that her current job location and work environment since June 2013 was in the building where she worked when she witnessed the trauma of the Fort Hood shootings in November 2009. She stated that her depression worsened because her work location and environment was consistent with where she first experienced trauma and the December 18, 2013 altercation at work.

In a January 13, 2014 narrative statement, appellant discussed the medical evidence that was submitted in her claim. She stated that the building where the 2009 shootings occurred, where she experienced her initial trauma, was the same building where she had been working since June 2013. Appellant stated that her daily work activities were affected every day she goes to work in that building and that her depression was aggravated, precipitated, and exacerbated by her daily work activities. She stated that this was a harsh work environment due to witnessing the 2009 shootings. Being assigned to that same building in June 2013, and the December 18, 2013 work injury involving Ms. Parnell aggravated appellant's medical condition. Appellant argued that the evidence of record establishes her claim. On December 18, 2013 she was in the regular office when Ms. Parnell abruptly stated that she should take her stuff and go back and work at the other site, which was the building where she experienced the 2009 trauma. She stated that she immediately could not breathe, was hyperventilating and had to go to the emergency room. Appellant alleged that her place of employment, as well as the December 18, 2013 work incident, all relate to the aggravation and exacerbation of her current anxiety and panic disorder. She again argued that the evidence of record establishes her claim.

In handwritten notes on a February 18, 2014 letter from OWCP to the employing establishment, appellant stated that the medical documentation shows that her medical condition was accelerated and worsened after the December 18, 2013 work incident. Appellant stated that she experienced trauma in 2009 as she was assigned to the site where the Fort Hood shooting occurred. She stated that she experienced anxiety from being at that location. With respect to the December 18, 2013 incident, appellant acknowledged that she did indeed do paperwork incorrectly. Ms. Parnell came to appellant in an abrupt manner and stated "take your stuff and go get out of here and go work at the SRP site. I do n[o]t have time for your attitude." Appellant complained that Ms. Parnell embarrassed her and threw her out of the office. She indicated that the thought of returning to the site where she initially had trauma from the Fort Hood shooting immediately caused her to hyperventilate and experience chest pains. Appellant saw her supervisor, Ms. Rucker, who witnessed the aftermath. She stated that any preexisting mental condition, if any, was made worse after this incident.

In a December 18, 2014 emergency report, Dr. Lincoln George Coffie, Board-certified in emergency medicine, reported that appellant presented with anxiety. He noted that she had a verbal confrontation with a coworker and afterward experienced hyperventilation, sweating, anxiety, and some chest pain. Appellant reported being at her desk, when a coworker came to her, slammed down paperwork, and in an angry tone in front of other coworkers, told her that she needed the papers fixed as they were all wrong. The coworkers stated this very loud so everyone could hear. Appellant stated that she asked the coworker if she could show her what she did wrong so she could fix it herself, but the coworker yelled for her to just get out and leave. Dr. Coffie noted a medical history of depression and anxiety and presented examination findings. He diagnosed anxiety disorder and released appellant to work with no restrictions on December 19, 2013.

In e-mails dated December 18 and 20, 2013, Ms. Porcher, a coworker, stated that she guessed the packets have been missing documents that were there when she coded them. Ms. Parnell was trying to explain the coding process to appellant and tensions were high. She stated that she had explained the process to appellant before.

Additional medical reports from Dr. Zaphiris were submitted. In a December 19, 2013 report, Dr. Zaphiris noted that appellant called the crisis line the previous night and stated that she “didn’t want to be here anymore.” Appellant denied any plan to kill herself, but stated that she has been feeling depressed and anxious. She stated that she works at the building where the Fort Hood shootings occurred and was there when it happened. Appellant stated that, yesterday, a coworker, who has some supervisory capacity, wanted her to correct a document and was not kind in her communication. She developed chest pain and shortness of breath and was taken to the emergency room where she was examined and told she had a panic attack and could return to work. Appellant does not want to return to work and has had difficulty working in the building. She reported being in the building when the shooting occurred on November 5, 2009 and having vivid memories of what occurred and seeing many of the injured people and several of the murdered people. Appellant reported having constant flashbacks, nightmares, and stated “it never goes away.” She tries to avoid reminders and reports feeling depressed since that time. Dr. Zaphiris provided an assessment of depressive disorder, NOS; panic disorder, and post-traumatic stress disorder (PTSD).

In a December 24, 2013 noted, Dr. Zaphiris indicated that as appellant works in the place where trauma occurred, consideration should be made to transfer her to a different site within the same organization as the current site constantly retraumatizes appellant.

In a January 6, 2014 CA-16 form, Dr. Zaphiris stated that appellant had a panic attack at work on December 18, 2013 after being verbally corrected by a supervisor at work in front of coworkers. Appellant’s preexisting depression and panic originated from military service in Korea and from exposure to the Fort Hood shootings on November 2009. Dr. Zaphiris opined that appellant’s depression and panic disorder aggravated and exacerbated by exposure to the shootings and harsh work environment at the site where the Fort Hood shootings occurred. She diagnosed major depression, severe; panic disorder; and PTSD. Dr. Zaphiris reiterated her opinion that appellant’s conditions were caused or aggravated by an employment activity, as her work location is where Fort Hood shootings occurred and that there was verbal correction in front of peers.

In a January 17, 2014 note, Dr. Zaphiris indicated that appellant presented for medication management and supportive individual therapy for the development of coping skills concerning depressive disorder, NOS, panic disorder, and PTSD. The note discussed that her PTSD symptoms from the November 5, 2009 shootings on Fort Hood have directly contributed to her difficulty working in or around the same worksite where the shootings occurred and have directly influenced her relationships with others, including coworkers. Dr. Zaphiris stated that the conflict on December 18, 2013 was an example of this difficulty as one of her symptoms of PTSD was depression with low self-esteem and difficulty taking criticism, especially as she described that it was given in front of her coworkers. This worsened her preexisting PTSD condition. In a January 17, 2014 prescription note, Dr. Zaphiris release appellant to work at 50 percent for the first week, and then 100 percent.

By letter dated February 6, 2014, the employing establishment challenged appellant's claim.

By decision dated October 1, 2014, OWCP denied appellant's claim on the basis that she had not identified any compensable factors of employment.

LEGAL PRECEDENT

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

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.³ 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.⁴

An employee's emotional reaction to administrative or personnel matters generally falls outside the scope of FECA.⁵ Although related to the employment, administrative and personnel matters are functions of the employing establishment rather than the regular or specially assigned

² See *Kathleen D. Walker*, 42 ECAB 603 (1991).

³ *Pamela D. Casey*, 57 ECAB 260, 263 (2005).

⁴ *Lillian Cutler*, 28 ECAB 125, 129 (1976).

⁵ *Andrew J. Sheppard*, 53 ECAB 170, 171 (2001); *Matilda R. Wyatt*, 52 ECAB 421, 423 (2001).

duties of the employee.⁶ 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.⁷

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.⁸ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter, OWCP must base its decision on an analysis of the medical evidence.⁹

A claimant has the burden of establishing by the weight of the reliable, probative, and substantial evidence that an emotional condition was caused or adversely affected by his or her employment.¹⁰ Neither the fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹¹

ANALYSIS

The essence of appellant's complaints of the December 18, 2013 incident was that, while she had done some paperwork incorrectly, Ms. Parnell had embarrassed appellant in front of her coworkers, was not kind in her communication, and reassigned appellant to a different section in the same building where the 2009 Fort Hood shootings took place. Appellant also alleges that her medical condition was exacerbated by working in the same building where the 2009 Fort Hood shootings took place as well as the December 18, 2013 verbal altercation with Ms. Parnell.

Initially, the Board finds that there are no *Cutler* allegations. The record reflects and appellant admits that she had done some paperwork incorrectly. However, she did not specifically attribute her claimed emotional and/or physical conditions to her regular or specially assigned work duties or a requirement imposed by the employment. Thus, appellant has not established a compensable employment factor under *Cutler*.¹²

Appellant alleged that on December 18, 2013 she was in the regular office when Ms. Parnell embarrassed her in front of her coworkers, was not kind in her communication, and reassigned her to another section in the building where the 2009 Fort Hood shootings took place.

⁶ *David C. Lindsey, Jr.*, 56 ECAB 263, 268 (2005).

⁷ *Id.*

⁸ *See supra* note 2.

⁹ *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).

¹⁰ *See Charles D. Edwards*, 55 ECAB 258 (2004).

¹¹ *See Ronald K. Jablanski*, 56 ECAB 616 (2005); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹² *Supra* note 4.

Ms. Porcher, in her December 18, 2013, statement, indicated that Ms. Parnell was trying to explain the coding process to appellant and tensions were high. Mr. Ryan, in his December 18, 2013 statement, related that Ms. Parnell was attempting to explain to appellant that she was still incorrectly distributing the paper components, when appellant became confrontational by interrupting Ms. Parnell and stating, “before you start blaming me” in a loud and abrasive tone. Thus, the record reflects that, while Ms. Parnell was attempting to help appellant by explaining the administrative paperwork requirements, appellant interrupted Ms. Parnell in a loud, disrespectful tone of voice and she then reassigned appellant to the other section for the day.

The assignment of work and monitoring of performance are administrative functions of a supervisor.¹³ The manner in which a supervisor exercises his or her discretion falls outside FECA’s coverage. This principle recognizes that supervisors must be allowed to perform their duties, and at times employees will disagree with their supervisor’s actions. Mere dislike or disagreement with certain supervisory actions will not be compensable absent error or abuse on the part of the supervisor.¹⁴ While appellant objected to having her work product criticized, in front of her coworkers, there is no evidence of any error or abuse on Ms. Parnell’s part. Thus, this administrative matter is not compensable.

Appellant took exception to the manner in which Ms. Parnell addressed her on December 18, 2013. In her statements, she alleged that Ms. Parnell came to her in an abrupt manner and stated “take your stuff and go get out of here and go work at the SRP site. I do n[o]t have time for your attitude.” In statements taken on the day of the incident, appellant told Ms. Rucker that she had some work that was done incorrectly and Ms. Parnell told appellant that she was not going to continue to fix her work and told her to leave and go the other section.

In the emergency room report, appellant reported being at her desk when a coworker came to her desk, slammed down paperwork, and in an angry tone in front of other coworkers, told her that she needed the papers fixed as they were all wrong, and stated it very loud so everyone could hear. When she asked the coworker if she could show her how to fix it, the coworker yelled for her to just get out and leave.

Verbal altercations and difficult relationships with supervisors/managers, when sufficiently detailed and supported by the record, may constitute compensable factors of employment.¹⁵ However, this does not imply that every ostensibly abusive or threatening statement uttered in the workplace will give rise to coverage under FECA.¹⁶ For appellant to prevail on her claim, she must support her allegations with probative and reliable evidence.¹⁷

¹³ *Donney T. Drennon-Gala*, 56 ECAB 469, 475 (2005); *Beverly R. Jones*, 55 ECAB 411, 416 (2004); *Charles D. Edwards*, 55 ECAB 258, 270 (2004).

¹⁴ *Linda J. Edwards-Delgado*, 55 ECAB 401, 405 (2004).

¹⁵ *Marguerite J. Toland*, 52 ECAB 294, 298 (2001).

¹⁶ *Fred Faber*, 52 ECAB 107, 109 (2000).

¹⁷ *See supra* note 2.

As noted, not every ostensibly abusive or threatening statement uttered in the workplace will give rise to coverage under FECA.¹⁸ Appellant's own account of the verbal altercation varies in degrees of harshness. Ms. Parnell admitted that she told appellant that she did not have time for her attitude. Ms. Porcher noted that the tensions between appellant and Ms. Parnell were high. However, there is no evidence to reflect that Ms. Parnell had raised her voice to appellant or spoke in an angry tone. In fact, the evidence reflects that appellant had interrupted Ms. Parnell during her explanation of the administrative paperwork requirements and became confrontational in a loud disrespectful tone of voice, which caused Ms. Parnell to reassign appellant to a different section. Also while this was an unpleasant and perhaps heated exchange between two coworkers who at one point had voiced criticism of the other's work, this did not amount to verbal abuse. Thus, this administrative matter is not compensable.

The remaining alleged employment incidents are administrative in nature. As such, appellant must demonstrate error or abuse on the part of her employing establishment in order for those administrative matters to be compensable under FECA.¹⁹

Appellant alleged that Ms. Parnell's reassignment to the other section on December 18, 2013 as well as working in the building where the 2009 Fort Hood shootings occurred contributed to her emotional and physical condition. An employee's frustration from not being permitted to work in a particular environment or hold a particular position is not compensable.²⁰ Appellant has not demonstrated error or abuse on the part of her employing establishment in either reassigning her to the other section or in having to work in the same building where the 2009 Fort Hood shooting took place. She alleges that she was present during the 2009 Fort Hood shootings and witnessed some of the injured and murdered people. As a result, appellant has had a hard time working in the building since 2013. The record is devoid of any evidence that the employing establishment knew of the effect working in the building where the 2009 shootings took place on her. Accordingly, appellant has not demonstrated error or abuse on the part of either Ms. Parnell in her reassignment or the employing establishment in placing her back to work in the same building where the 2009 shootings took place.

Because appellant failed to establish a compensable factor of employment, OWCP properly denied the claim without addressing the medical evidence of record.²¹ While Ms. Rucker's statement verifies that appellant was transported to an emergency room shortly after the incident and the employing establishment issued a CA-16 form to authorize medical treatment, the form does not appear in the record. A properly executed CA-16 form can form a contractual agreement for payment of medical expense, even if the claim is not accepted. *See* 20 C.F.R. § 10.300; *Val D. Wynn*, 40 ECAB 666 (1989). The Board notes that, under 5 U.S.C. § 8103, OWCP also has broad discretion to approve medical care which it finds necessary and reasonable in cases of emergency or other unusual circumstances. Upon return of the case record, OWCP shall determine whether appellant's initial medical care in the hospital emergency

¹⁸ *See Fred Faber*, 52 ECAB 107, 109 (2000).

¹⁹ *David C. Lindsey, Jr.*, 56 ECAB 263, 268 (2005).

²⁰ *Supra* note 4.

²¹ *Garry M. Carlo*, *supra* note 9.

room should be authorized pursuant to 20 C.F.R. § 10.304, which provides that, in cases involving emergencies or unusual circumstances, OWCP may authorize treatment.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision.²²

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained an emotional condition causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the October 1, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 24, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

²² See 5 U.S.C. § 8128(a); 20 C.F.R. §§ 10.605-10.607.