U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GARY R. GLASSMAN and U.S. POSTAL SERVICE,
POST OFFICE, Long Beach, CA

Docket No. 00-2638; Submitted on the Record;
Issued September 5, 2001

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On March 22, 1999 appellant, then a 52-year-old letter carrier, filed an emotional claim, alleging that on January 20, 1999 he was "unjustly, disparately and overtly discriminated against" when his supervisor, Dave George, placed him on "emergency, indefinite suspension" from his place of employment where he had worked 13 ½ years. He stopped working on March 12, 1999 and returned to work on April 1, 1999.

Appellant stated that on October 7, 1997, he had an official discussion with Lilly E. Bone, Dan Asher and his supervisor, Jim Gazeley, in which Mr. Gazeley ordered appellant to stop asking for the volume figures that the router "P.M." cases and to stop asking him how much "DPS" he had for the day. Mr. Gazeley told appellant it was none of his business and if appellant kept asking him, he would issue a letter of warning.

Appellant alleged that he was forced to work 10 arduous hours at a very physical job when he was not on the overtime desired list, and felt the hours were detrimental to his health and well being. When he told management, they laughed at him. On December 18, 1997 while chatting with coworkers about the Christmas potluck, he said to the coworker, Lily, that that she was not filing grievances because she was "probably sleeping with management," for which he got a letter of warning on January 6, 1998 from his supervisor, Jim Gazeley. Appellant stated that he did not mean the remark to be hostile but it slipped out due to the stress he was under.

Appellant stated that on January 6, 1998 when he returned to work after a three-week absence recovering from the flu and handed Mr. Gazeley a physician's note saying "inside work only," Mr. Gazeley told him to leave the building and not return until he could work the entire route without street assistance and return with a more explicit doctor's note. He repeated his comment to appellant to leave the building and not return.

Appellant alleged that on January 8, 1998 Mr. Gazeley denied him auxiliary assistance. He knew he was not going to finish his mail before dark and told a coworker to tell Mr. Gazeley

that he would have to bringing the mail back. When appellant returned close to 6 p.m. with some undelivered mail, Mr. Gazeley "bellowed [at him] in an exclamatory and antagonistic manner," objecting to his bringing the mail back without calling him to let him know and "in a condescending, demeaning, maniacal and malicious manner," told him never to bring mail back, to stay out there as long as it takes and he did not deserve to work there and he (Mr. Gazeley) was going to "get [him] out of here." Mr. Gazeley walked away, but then turned around and stated that he would "write [him] up right now with a letter of warning but [he was] in enough trouble" and he would write him up next time he returned with mail. Appellant noted that Mr. Gazeley repeated some of these comments to him a few more times that day in the same hostile manner.

Appellant stated that when the union filed a grievance against Mr. Gazeley on appellant's behalf and the union steward, Bill Feierabend, tried to conduct an investigation, the window supervisor stated that the Postmaster, John Puskas, ordered him not to give out any information about the incident. Appellant believed this was evidence that Mr. Puskas in conspiracy with Mr. Gazeley was trying to block the investigation.

Appellant stated that on January 12, 1998 Mr. Gazeley ordered him to the front office and had an "expectation meeting" where he gave appellant specific instructions as in casing 6 ¾ feet, case first and second case mail in the morning, and that he must follow these instructions.

Appellant reported that on April 9, 1998 he was in a meeting with Mr. Gazeley, Mr. Feierabend and Dan Asher, the postmaster's assistant, regarding his conduct the day before when he was suppose to watch a video tape and sign an attendance sheet. Mr. Gazeley told him that he had a bad attitude and was sending him to the Employee Assistance Program (EAP) and when appellant told him he had signed the attendance sheet, Mr. Gazeley said he "had a bad attitude anyway" and he was "still sending [him] to EAP." He subsequently learned from Mr. Feierabend that the postmaster endorsed Mr. Gazeley's decision. Appellant stated that he went to the EAP meeting but left work early under "extreme stress and duress."

Appellant stated that on May 1, 1998, Mr. Gazeley handed out pay stubs to everyone but him and that Mr. Gazeley threw appellant's pay stub "on the coffin." When he told Mr. Gazeley to hand his pay stub to him, Mr. Gazeley kept walking, smiled and ignored him.

A grievance worksheet dated October 28, 1998 stated that appellant was denied his request for temporary schedule change for personal convenience on October 3, 1998. In a grievance worksheet dated November 1998, appellant grieved not being permitted to clock in early on July 25, 1998. A grievance worksheet dated December 17, 1998 stated that appellant was given an unsatisfactory work performance by his supervisor, Kathleen Nix, because he expanded his street time 1 hour and 50 minutes over the 1 hour estimate and appellant claimed that multiple interruptions by management and other circumstances caused the necessary street time expansion.

By letter dated October 30, 1998, Mr. Puskas told appellant that after investigation of appellant's complaint that Ms. Nix sexually harassed him on October 15, 1998 by putting her arm around him to assist him and other instances of her touching him in the office, Mr. Puskas found that any touching and bumping by Ms. Nix was incidental due to the confining quarters and impatience of Ms. Nix. He prescribed an arrangement to avoid future incidents.

On December 18, 1998 appellant stated that while working at his station casing mail, he stopped momentarily to clean his eyeglasses, spray them with a cleaner and wipe them clean. Mr. George chastised him for doing that and told him to do it on his "own time." He told appellant that he was giving him a direct order to continue working. Appellant stated that when he went back to work, Mr. George continued to "stare and glare" at him.

Appellant stated that during the week of December 29, 1998, Mr. Gazeley repeatedly ignored him when he requested a reshifting of a cardboard cover over an air conditioning vent which blew cold air over his head. He stated that he was "forced to complete" a "#1769 Hazard Report" form. Appellant stated that one time Mr. Gazeley, in a mean way, blurted out on the workroom floor that he was tired of making special conditions for appellant, that if he did not like it, he would move him back to his desk and he would not make any more special conditions for him. When he requested to see the union steward that day and three other days, Mr. Gazeley denied his request. Appellant stated that instead of rectifying a safety hazard, Mr. Gazeley made the situation worse.

Appellant stated that on that same date, Mr. Carvalho came over to his workstation and told him in a "demeaning, arrogant and belligerent manner" that he wanted appellant to place six inches of flats on his arm when he cased. He responded that he was unable to do so due to his physical disability. Mr. Carvalho then asked appellant to come with him into his office for an official discussion because he did not follow Mr. Carvalho's orders. Appellant stated that he became very upset and his heart was pounding and his pulse racing. He felt he was being singled out because of his workers' compensation injury. Appellant stated that Mr. Carvalho came up to him again when he was working and said how many times must he tell him to place "six inches on [his] arm." He stated that on the same day, January 9, 1999, the president of the local union informed the supervisor, Dave Carvalho and Mr. George that there was nothing in the manual that demanded that the six inch work requirement be instituted.

Appellant stated that on January 20, 1999 a coworker, Bill Stahr, who had falsified one of appellant's leave documents, stated that he was "going to get [appellant]," and that he finally "got [appellant]." He stated that because of Mr. Stahr's "well-known hatred" of him and his remarks about him, appellant took a "wide girth around him," but Mr. Stahr turned towards him and their elbows touched lightly. Appellant's supervisor summoned him to the front office and Mr. George told him he was placed on emergency, indefinite suspension. An official letter dated January 20, 1999 charged him with unacceptable conduct of pushing and shoving to intimidate coworkers on the workroom floor and that he was being put on emergency placement in an off-duty status.

By letter dated January 22, 1999, management informed appellant that after the basic investigation of the incident for which appellant was placed on emergency off-duty status, appellant was to return to work on January 25, 1999.

Appellant reported that on February 25, 1999, while on his route working, Mr. Cavalho and Mike Acino stopped him, wrote on a clipboard, asked him what time he left the office and when appellant said he did not recall, Mr. Cavalho said he would look it up and they left. Another time Mr. Cavalho and Mr. Gazeley stared at him while he was on route and when appellant asked if he could help them, they said no, that they just wanted to watch him and after five minutes they left. Appellant stated that back at the office, Mr. Cavalho said he wanted to

talk to appellant in the front office, but appellant stated he did not hear him at first and when he did hear him, appellant told him he did not feel well and had diarrhea and a headache.

Appellant stated that on February 16, 1999, Mr. Carvalho eliminated a "hand-off" to him which reflected his bias and agenda against him.

In an Equal Employment Opportunity Commission (EEOC) complaint, appellant stated that on January 20, 1999, Mr. George unjustly fired him from his job, having been accused of fighting with another letter carrier.

Appellant stated that on March 1, 1999, after he clocked in at 8:00 a.m., he did his vehicle check and Mr. Carvalho summoned him to the front office to inform him that he was entering into appellant's personal file that he walked away after clocking in. He stated that also on February 28 or March 1, 1999, Mr. Carvalho summoned him to the front office to inform that he was going to place in his permanent record that he disobeyed Mr. Carvalho's direct order on February 24, 1999 when, after completing his route, appellant walked away from him after Mr. Carvalho insisted on talking to him. Appellant stated that on that same day, apparently February 24, 1999 Mr. Carvalho and Mr. Gazeley twice approached him at different times while he was on his street route and made negative comments about him.

On March 2, 1999 Mr. Carvalho issued appellant a letter of warning, stating that appellant's work performance was unsatisfactory because he failed to follow instructions on February 24, 1999 by refusing to go to the front office and his conduct was unacceptable because he showed insubordination.

Appellant stated that on March 3, 1999 Mr. George, Mr. Gazeley and Mr. Carvalho gave him an official discussion in which Mr. George told appellant that he did not like appellant using a rolling pushcart on route while he was delivering the mail as it slowed him down and decreased his productivity. He told appellant he was going to eliminate the cart and the elevated platform appellant used at his workstation, that appellant should not switch hands while casing, and appellant was not to wear wrist braces as there was no medical documentation that he needed them. Appellant stated those ergonomic accessories were necessary for him but Mr. George said he did not care and would eliminate them.

Appellant stated that on March 12, 1999 after clocking into work, Mr. Carvalho called him into the front office and asked him why he asked for two hours for assistance when he only needed one hour. He stated that the previous day, Mr. George and Mr. Gazeley were with him for approximately 4 ½ hours "watching, observing and commenting on every movement." Appellant stated that Mr. George was never more than two to three feet from his body. He hesitated to answer Mr. Carvalho's question because he felt they would not accept his answer. Appellant stated that they challenged him for not answering the question and declared the meeting over.

On March 15, 1999 appellant received a letter of acknowledgement from EEOC that an inquiry would be made into his complaint that he was terminated falsely based on false allegations.

In an undated statement, appellant stated that a coworker told him that in December 1998 or January 1999 Mr. Cavalho said to the letter carrier, "Where does that shithead hide while he is on the route! I want to get him!" He stated that Mr. Gazeley told him he would receive no street

assistance. Appellant summarized that management's actions against him were "so unrelenting," and increased in intensity. He felt they had an ongoing campaign to belittle, ridicule, demean and degrade him in front of his coworkers and in front of his patrons in the street.

On March 5, 1999 Mr. George stated that as part of a Step II grievance appeal regarding appellant's complaint that he was charged with absence without leave (AWOL) for 3.86 hours on January 25, 1999 and 8 hours on January 26, 1999, without precedent or prejudice to either party, the AWOLs were changed to leave without pay.

On March 5, 1999 Mr. George stated that as part of the Step II grievance appeal regarding appellant's being put on emergency placement on January 20, 1999, without precedent or prejudice to either party, appellant was to be paid administrative leave to make up to eight hours on January 20 and 21, 1999.

On March 9, 1999 as part of the Step II grievance appeal regarding the letter of warning issued to appellant on December 16, 1998 for unsatisfactory work performance and expansion of street time, without precedent or prejudice to either party, the letter of warning was removed from the appellant's "OPF" and not citable in other actions. The settlement stated that there was no "hand-off" assignment for appellant's route and that overtime or auxiliary assistance was approved by management as necessary.

Appellant stated that on March 11, 1999 he asked for assistance to complete his mail delivery and Mr. George agreed but subsequently Mr. Carvalho denied his request. He stated that, given the supervisors' conflicting instructions as to whether he was to receive assistance, he was unable to make an accurate estimate of the work he would complete that day. Appellant stated that the next day Mr. George and Mr. Carvalho forced him to leave early to receive medical help. He stated that they had an intentional "game plan" against him and were orchestrating a campaign to terminate him. Appellant also stated that he was watched so closely by those supervisors and Mr. Gazeley that he felt his every move was monitored.

On March 18, 1999 Mr. Carvalho issued appellant a letter of warning for unsatisfactory work performance in failing to provide a reliable working assessment or estimate to the supervisor and falsification of PS Form 3996 and the carrier's auxiliary control.

On March 18, 1999 appellant filed a grievance objecting to the letter of warning issued on March 12, 1999 charging him with unsatisfactory work performance and conduct. By letter dated March 26, 1999, Mr. Puskas at a Step II meeting, stated that appellant claimed he was ill and went home and therefore the discussion with appellant's supervisor could have been held the next morning. He stated that the letter of warning would be reduced to a discussion when appellant returned to work.

In a report dated April 8, 1999, Dr. William C. Kim, a Board-certified orthopedic surgeon, stated that appellant should be provided on a permanent basis a satchel cart to unload his right shoulder, an elevated platform so he did not have to raise his hand above his shoulder level, he should continue changing hands while casing in the office and he should wear bilateral wrist splints for carpal tunnel syndrome.

In an undated statement received by the Office of Workers' Compensation Programs on March 1, 2000, Mr. Carvalho stated that on January 9, 1999 appellant did not have medical restrictions on file in the office and there was "no discipline for not holding six [inches] of mail

on his arm." He stated that in January 1999 he and Mr. Gazeley observed appellant and other carriers on route, that they rolled down their window and said hi to him, but he made a negative comment and they drove away. Mr. Cavalho stated that he did not recall an official discussion with appellant for leaving his case after checking in, that everyone left the work area after clocking in to inspect their vehicles and appellant was never written up. He stated that he never did a route inspection with appellant, that at the time he had no training for that purpose, and he never stood two to three feet away from any employee, especially appellant, who seemed very upset. Mr. Calvalho stated he did not remember saying to appellant "failure to follow instructions or orders." He stated that according to their records, appellant was a "100 percent" able to perform his regular duties.

In a statement dated March 2, 2000, Mr. George stated that appellant did not have a handoff route and no one had authorized one. He stated that appellant did not show entitlement to a handoff assignment on his route. Mr. George stated that on one particular day, he noticed appellant repeatedly cleaning his glasses, and after one minute had elapsed, Mr. George told him that he already cleaned his glasses and should return to work. He believed appellant was acting to retaliate against management for denying him a handoff assignment. Mr. George stated that he did not yell. He stated that he instructed appellant to use plastic to pull his route down instead of tubs because his route was more conducive to trays since he had a park and loop route. Mr. George stated that appellant's allegations regarding not using the platform and wrist brace were false. He denied standing behind appellant to watch him case mail and denied hiding or spying on appellant while he was on the street to catch him at something. Mr. George stated that on March 11, 1999 he performed a one day route inspection on appellant, that he did not give appellant conflicting instructions and found that appellant performed his street duties in a generally efficient method.

In an undated statement, Mr. Gazeley stated that he did not agree with appellant's allegations regarding the January 8, 1998 incident. He stated that he tried to find out why appellant brought back mail and did not finish his route, and when he addressed appellant, appellant became verbally abusive. Mr. Gazeley denied making the comment that appellant did not deserve to work there and he would be the one to "get" appellant out of his job.

Mr. Gazeley denied that he threw appellant's pay stub down on May 1, 1998 and stated that he laid his pay stub down like he did for the other workers who had mail in his or her hands. He stated that appellant told him to put the pay stub in his hand every time in a loud and demeaning way. Mr. Gazeley denied appellant's allegation that on December 29, 1998, he refused to adjust an air vent. He stated that he had it fixed the same day appellant complained which was corroborated by the person who fixed it. Mr. Gazeley denied that he told appellant to move back to his desk or that he was tired of making special conditions for him. He denied that he stated that they were going to make changes around there and he would not be doing this anymore while observing the carriers. Mr. Gazeley stated that he and Mr. Calvalho did observe appellant on the street once, but did not say they were going to watch appellant work. He stated that appellant made rude comments to them such as calling them "stupidvisors." Mr. Gazeley denied seeing anyone stand within two to three feet of appellant except when he talked to his union representative.

A witness statement dated February 25, 2000 from Anthony Bui, stated that on January 8, 1998, when appellant brought the mail back to the office, Mr. Gazeley asked him why he brought the mail back and stated that he would not write appellant up this time. In a routing slip

dated February 24, 2000, another witness, Ronald Kromark stated that on January 8, 1998 he heard Mr. Gazeley ask appellant why he brought the mail back, appellant became "abuse of Mr. Gazeley," who stated that he would not write him up this time but he should not bring back the mail without letting him know.

By decision dated April 4, 2000, the Office denied appellant's claim, stating that the evidence of record failed to support that appellant sustained any condition in the performance of duty since no events were accepted as having occurred in the performance of duty.

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

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]

Where an employee alleges harassment and cites to specific incidents and the employer denies that harassment occurred, the Office or some other appropriate fact finder must make a determination as to the truth of the allegations.[3] The issue is not whether the claimant has established harassment or discrimination under standards applied the EEOC. Rather the issue is whether the claimant under the Act has submitted evidence sufficient to establish an injury arising in the performance of duty.[4] To establish entitlement to benefits, the claimant must establish a factual basis for the claim by supporting allegations with probative and reliable evidence.[5]

To the extent that disputes and incidents alleged as constituting harassment by supervisors and coworkers are established as occurring and arising from appellant's performance of his regular duties, these could constitute employment factors.[6] However, for harassment to give rise to a compensable disability under the Act, there must be evidence that harassment did in fact occur. Mere perceptions of harassment are not compensable under the Act.[7]

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[1] 5 U.S.C. §§ 8101-8193.

[2] *Clara T. Norga*, 46 ECAB 473, 480 (1995); *see Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

[3] *Michael Ewanichak*, 48 ECAB 364, 366 (1997); *Gregory J. Meisenburg*, 44 ECAB 527 (1993).

[4] *See Martha L. Cook*, 47 ECAB 226, 231 (1995).

[5] *Barbara E. Hamm*, 45 ECAB 843, 851 (1994).

[6] *Clara T. Noga*, *supra* note 2 at 481; *David W. Shirey*, 42 ECAB 783, 795-96 (1991).

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

In this case, appellant's allegations that management harassed him, treated him abusively, excessively monitored him, denied him his accessories to cope with his disability, gave him excessive overtime, unfairly issued him letters of warning addressing his alleged insubordination, assaulting a fellow employee, and improperly extending his hours were either not corroborated or were related to administrative matters which are only compensable if appellant shows that management acted unreasonably or abusively.[8] He had not made this showing.

Regarding the January 8, 1998 incident when appellant returned with mail and Mr. Gazeley allegedly chastised him for it, Mr. Gazeley stated that he tried to find out why appellant did not finish his route and appellant became verbally abusive. Mr. Gazeley denied that he stated that appellant did not deserve to work there and was going to "get" appellant out of his job. Two witnesses stated that Mr. Gazeley told appellant when he brought the mail back that he would not write him up this time. Mr. Gazeley's action of evaluating appellant's work performance in failing to deliver all the mail constitutes an administrative matter, and appellant did not show that Mr. Gazeley acted unreasonably or abusively.[9]

Regarding the incident on December 18, 1998 where appellant took off his glasses to wipe them and Mr. George allegedly unfairly chastised him for it, Mr. George stated that appellant took an undue long time to wipe his glasses and believed he was acting in a retaliatory way against management for denying him a handoff assignment. Mr. George's monitoring appellant's work performance is an administrative matter, and appellant did not show that Mr. George acted unreasonably or abusively.[10]

Regarding appellant's allegation that Mr. Gazeley and Mr. Cavalho followed him on route to check on him, made negative comments about him and stared at him, their monitoring his route is an administrative matter, and as such is not a compensable factor of employment because appellant did not establish that they acted unreasonably or abusively.[11]

Appellant's contention that Mr. Gazeley repeatedly ignored him when he asked for his air conditioner to be fixed was not corroborated by evidence of record in that Mr. Gazeley stated that the air conditioner was fixed which the person who fixed it also asserted.

On January 20, 1999 appellant was put on emergency placement with off-duty status for allegedly assaulting his coworker, Mr. Stahr. By letter dated January 22, 1999, management informed appellant that it had completed an investigation and appellant could return to work on January 25, 1999. The March 5, 1999 Step II grievance appeal reimbursed appellant eight hours of administrative leave without precedent or prejudice to either party. Management's disciplining appellant for possibly assaulting a coworker is an administrative matter and

[8] *See David G. Joseph*, 47 ECAB 490, 496 (1996).

[9] *See Michael Ewanichak*, *supra* note 3 at 365; *Daryl R. Davis*, 45 ECAB 907, 911 (1994).

[10] *Id.*

[11] *Id*.

appellant did not show management acted abusively or unreasonably in the regard.[12] The grievance settlement did not show management acted wrongly.

Appellant was issued letters of warning, on January 6, 1998 for making a rude comment to a coworker, on December 16, 1998 for unsatisfactory work performance and expansion of street time, on March 2, 1999 for insubordination in failing to follow Mr. Cavalho's instructions to report to the front office and on March 18, 1999 for failing to provide a reliable working assessment or estimate to the supervisor and falsification of PS Form 3966. The Board has held that the issuance of letters of warning constitute administrative matters and as such are not compensable unless management has acted unreasonably or abusively. Appellant had not made this showing. The March 9, 1999 grievance settlement regarding the December 16, 1998 letter of warning stated that the letter of warning would be removed from appellant's file and not cited in other actions. The settlement also stated that there was no handoff assignment in appellant's route and auxiliary assistance was approved by management if necessary. The March 18, 1999 grievance settlement regarding the March 2, 1999 letter of warning addressing appellant's insubordination stated that appellant was legitimately ill and went home, that the discussion with his supervisor could have waited until the next day and therefore the letter of warning would be reduced to a discussion when appellant returned to work. Since these settlements were issued without precedent or prejudice to either party, they do not show management acted wrongly.

Mr. Cavalho, Mr. George and Mr. Gazeley denied many of appellant's allegations. Mr. Cavalho denied disciplining appellant for not holding six inches of mail over his arm. He denied writing appellant up for appellant's inspecting his vehicle after clocking in. Mr. Cavalho denied ever standing two to three feet away from appellant to observe him. Mr. George denied that he ever told appellant he should not use a platform, wrist braces or other accessories. He stated that he instructed appellant to use plastic instead of tubs to pull down mail because his route was more conducive to trays. In this regard, Mr. George was acting reasonably with his administrative role of monitoring appellant's work performance.[13] He also denied giving appellant conflicting instructions. Mr. Gazeley denied that he threw appellant's pay stub at him but stated that he laid the pay stub down in the same way he did for all workers who had mail in their hands. He denied telling appellant he would move him back to his desk and was tired of making special conditions for him. Mr. Gazeley also denied that he stated that he was going to make changes around there. He also denied seeing anyone stand within two to three feet of appellant except when he talked to a union representative.

Appellant failed to present evidence to corroborate that on October 7, 1997, Mr. Gazeley ordered appellant to stop asking him for the volume figures and that he told appellant it was none of his business and he would issue him a letter of warning if he kept asking. Appellant did not corroborate that he was unreasonably asked to work overtime on a regular basis and that management laughed at him when he complained. He did not present evidence corroborating that on January 6, 1998, Mr. Gazeley rejected his physician's note which said "inside only" and insisted on appellant's leaving the building. Appellant did not present evidence corroborating Mr. Puskas and Mr. Gazeley tried to block an investigation by the union steward. Further, appellant did not present evidence to corroborate that in a meeting on April 9, 1998, Mr. Gazeley chastised him for not signing an attendance sheet at a video viewing when in fact he had, and

[12] *See David G. Joseph*, 47 ECAB 490, 497-98 (1996).

[13] *See Michael Ewanichak, supra* note 3.

Mr. Gazeley told him that regardless of whether he signed it he had a bad attitude and therefore was sent to EAP. Regarding appellant's allegation that his supervisor, Ms. Nix, sexually harassed him on certain occasions, while there apparently was some touching, management regarded it as incidental to the "confining quarters" of the office and appellant did not conclusively establish that Ms. Nix abused him. Appellant did not present corroborating evidence that in December 1998 or January 1999 Mr. Cavalho called him "a shithead" to a coworker. He did not establish that Mr. George and Mr. Cavalho forced him to leave work early to obtain medical help.

Inasmuch as appellant did not show that management acted unreasonably or abusively in the administrative matters which appellant alleged caused him stress and appellant did not corroborate the other incidents of harassment, he has failed to establish his emotional claim.[14]

The decision of the Office of Workers' Compensation Programs dated April 4, 2000 is affirmed.

Dated, Washington, DC
September 5, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

[14] Since no compensable factors have been alleged, it is not necessary to address the medical evidence. *See Diane C. Bernard*, 45 ECAB 223, 228 (1993).