

appellant's claim and found no basis for the allegations. Mr. Malek opined that appellant's panic attacks were not employment related as it was merely appellant's perception that there was "intrigue in the making against him."

Appellant submitted a letter dated February 26, 2002 addressed to Mr. Malek, the Chairman of the Arabic Department, stating that he experienced an anxiety attack on February 26, 2002. In a separate letter of the same date, appellant asserted that some of his students would receive a low final grade due to minimal effort in completing assignments, favoritism in the grading system, manipulation of the teaching staff by students and contradictory instructions and briefings resulting in a lack of discipline and poor time management.

In a letter dated March 25, 2002, appellant stated that he collapsed inside his classroom on February 28, 2002. He alleged that since 1998 he was subjected to harassment, intrigue, infighting, and favoritism, as well as unequal distribution of hours and assignments. He asserted that on February 28, 2002 his desk was opened and documents pertaining to the scheduling of course assignment were removed. Appellant protested the class briefing regarding solicited letters of appreciation. He stated that on March 1, 2002 Mr. Malek moved him to a different office ostensibly to protect his health.

In an undated letter address to Mr. Malek, appellant asserted that on February 28, 2002 an instructor hindered him from reaching his desk, that upon reaching his desk he discovered items were missing from his desk, and that his students informed him that they were prohibited from providing him with letters of appreciation. Appellant stated that a coworker, Nisma El Nimri, stated, "Those Egyptians are very good at acting." Appellant alleged that two colleagues cursed at him on February 25, 2002 and that he received a series of telephone calls at his home and office threatening to telephone his elderly father in Egypt and defame appellant. He also protested his transfer.

Mr. Malek wrote appellant on March 26, 2002 and denied that he had been subjected to harassment and intrigue. He stated that when he mentioned in the February 25, 2002 team meeting that appellant had been late when acting as team leader, appellant walked out. Mr. Malek stated that there were no discrepancies in the teaching schedule, the employing establishment did not have a loose grading system and that students did not "play teachers against each other." He further asserted that students were appropriately disciplined and that appellant was transferred to another team due to his request. Dr. Malek alleged that appellant's coworkers denied knowledge of any missing items.

Appellant submitted a letter dated April 10, 2002 addressed to Mr. Malek alleging that team leader Janan Bidawid showed favoritism toward Yoursa Machtoub due to nepotism and that he instructed appellant to teach her classes for her on several occasions. He alleged that he taught for many hours that were not recorded and that Mr. Bidawid was falsifying teaching credit for special assistance. Appellant also asserted he left the meeting early on February 25, 2002 because Mr. Bidawid called him an idiot and because Ms. Machtoub spoke to him in a vulgar manner. He stated that only the students caught cheating had a problem with him and requested aid in recovering items which were stolen from his office. Appellant alleged that his request for transfer was delayed contributing to his current emotional condition.

On June 26, 1998 Dr. James Lake, a Board-certified psychiatrist, diagnosed generalized anxiety and panic symptoms due to unresolving work-related stress caused by the relationship with his supervisor Mohammed AlHaise, a former team leader. Appellant also submitted a medical report dated March 14, 2002 from Dr. John R. Donaldson, an osteopath, diagnosing panic disorder and indicating with a checkmark “yes” that this condition was caused by work-related harassment. On March 21, 2002 Dr. Lake diagnosed panic attacks and major depression. He also indicated that appellant’s condition was due to long-standing harassment at the workplace.

The Office requested additional factual information by letter dated April 23, 2002. Appellant submitted his medical records regarding an April 26, 1998 hospitalization. Dr. Lake diagnosed panic disorder and noted that appellant described significant conflict at work stating, “My supervisor just presses me too hard, and now he will see that he just made me sick by pressing me so hard.” On May 1, 1998 Dr. Lake stated that appellant was hospitalized for panic attack and suicidal thoughts. He noted that appellant experienced significant conflict at this place of work.

Appellant also submitted medical documentation of his March 2002 hospitalization. Dr. Donaldson diagnosed psychosis on March 1, 2002. Dr. Donaldson also diagnosed psychosis and panic disorder noting that appellant attributed his condition to actions of his work supervisors. In a report dated March 15, 2002, Dr. Lake noted that appellant attributed his emotional condition to a promotion, the fact that appellant’s apartment door was broken, and a blackmail attempt to force him to report misconduct of a coworker. He also mentioned that appellant believed he was working harder than his coworkers and that his notes and tapes regarding the blackmail and the discrepancies in work schedules had been stolen.

Appellant submitted a letter dated March 1, 2002 essentially duplicating his previously undated letter addressed to Mr. Malek. Mr. Malek responded to appellant’s April 10, 2002 letter on April 16, 2002 and stated that the relationship between Mr. Bidawid and Ms. Machtoub was not nepotism as the two were not related. He also stated that he had instructed Mr. Bidawid to be more careful with words. Regarding appellant’s teaching hours, Mr. Malek requested an inventory of hours. He noted that appellant requested a transfer in November 2001 and asserted that he had directed appellant to call the police regarding the items missing from his desk.

Appellant submitted a witness statement from Loris H. Ebrahim, a coworker, dated April 27, 2002. Mr. Ebrahim stated that appellant had a problem with Mr. AlHaise who was transferred and Hassan Bouhaja was discriminatory regarding religion and national origin. He stated that Mr. Bouhaja apologized to appellant. Mr. Ebrahim stated that Mr. Bouhaja believed that a Muslim and a Christian should not be friends.

A witness, Sabur Neuman, submitted a statement dated April 26, 2002 and stated, “I heard on February 28, 2002 that a lady accused [appellant] when he fell down that he was acting and deserved an Oscar and all Egyptians are actors.” Ruth Agib submitted a statement dated April 26, 2002 and stated that Mr. Bouhaja apologized to appellant. Also on April 26, 2002 Souhail Aridi stated that Mr. Bouhaja made accusations against appellant and had to apologize.

In a statement dated May 13, 2002, appellant asserted that he had discovered two students cheating. He reported this finding to Mr. Bidawid, who according to appellant, chose to treat the incident as a joke in order to gain the student's support and to portray appellant as the enemy. Appellant alleged that Mr. Bidawid was aware that appellant taught more hours than Mr. Bidawid reported to Mr. Malek. He further alleged that Mr. Bidawid accused appellant of using a more stringent grading system. Appellant stated that Mr. Bidawid concluded that appellant should not solicit letters of recommendation from students. Appellant submitted letters from students.

Appellant alleged that there was an inappropriate relationship between Mr. Bidawid and Ms. Machtoub. Appellant stated that he received voicemail at work threatening to call his father and accuse appellant of pandering due to his failure to report the relationship between Mr. Bidawid and Ms. Machtoub. He alleged he had recorded the harassing telephone calls and that on February 28, 2002 these recordings were stolen from his desk. He alleged that Mr. Malek asked him not to call the police. Appellant also noted that his apartment door was damaged on February 6, 2002.

Appellant repeated the allegation that Mrs. El Nimri accused him of acting when he collapsed in his classroom and also asserted that she stated, "All Muslims need to be killed for the world to be rid of their evil." Appellant also stated that due to his transfer to another team on March 1, 2002 he was deprived of graduation with his students. He further stated that he experienced discrimination based on his faith and national origin. Specifically, appellant stated that Hassan Bouhaja, a previous team leader, instructed appellant to end his friendship with a Christian Egyptian colleague. Appellant also asserted that Mr. Bouhaja harassed him and accused him of an improper relationship with a female student. He stated that Mr. Bouhaja was forced to apologize in a meeting confessing that the allegations were false. Appellant alleged that Mr. AlHaise, a former team leader, made jokes about appellant's national origin.

Appellant submitted a letter from his former attorney, Constantin V. Roboostoff, alleging harassment and discrimination by Mr. Bouhaja against appellant due to his association with members of the Coptic faith. Mr. Roboostoff further stated that Mr. Bouhaja accused appellant of engaging in improper relationships with students and falsely stating that appellant had renounced the Moslem faith.

A coworker, Aiser Dawod, submitted an undated statement asserting that Mr. AlHaise made "constant fun" of appellant in the presence of his coworkers. He noted that Mr. AlHaise was removed from the team when these actions were reported to the chair of the department.

Mr. Malek submitted a statement dated May 17, 2002 noting that Ms. El Nimri denied making the statements that appellant attributed to her. He also noted that appellant's witness, Edward Sidhom, denied hearing Ms. El Nimri state that all Muslims needed to be killed.

In a separate statement dated September 7, 2002, Mr. Malek responded to appellant's allegations noting that the students accused of cheating were found to be innocent, that appellant had submitted no proof that he worked more hours than credited by Mr. Bidawid, that he was not familiar with the voice on the recording of the threatening telephone calls made to appellant's home, and that he instructed appellant to report the theft of his recordings to the police. He

further noted that Ms. El Nimri denied stating that Egyptians were good at acting which was confirmed by appellant's witness, Mr. Sidhom. Mr. Malek also stated that he did not hear either Mr. Bidawid or Ms. El Machtoub cursing during the meeting, but that he had instructed Mr. Bidawid to watch his language after appellant stated he had referred to him as an idiot. He repeated that there was no nepotism at the employing establishment and concluded that he was not aware of the person or persons who made the threatening telephone calls or who damaged the door of appellant's apartment. Mr. Malek stated that he asked teachers not to solicit recommendations from students, that Mr. Bidawid did not spoil appellant's relationship with his students and that appellant requested a transfer to another team, but later changed his mind suggesting that the other team members should be moved instead. He asserted that Mr. Bouhaja stated that he was sorry that there was a misunderstanding with appellant, but that Mr. Bouhaja was not forced to apologize.

By decision dated October 22, 2002, the Office denied appellant's claim finding that he failed to substantiate a compensable factor of employment.

Appellant requested an oral hearing on November 6, 2002. Appellant submitted additional evidence in support of his claim, including a June 6, 2003 statement from Mr. Dawod, in which he alleged that Mr. AlHaise made a gesture indicating that appellant was not worthy of being treated as a human. He also alleged that Mr. AlHaise treated appellant different from other team members.

In a statement dated May 28, 2003, Mr. Ebrahim stated that Mr. AlHaise made fun of appellant because he was Egyptian, that he insulted appellant intentionally in front of his students, "using words and gestures degrading [appellant]." He also asserted that Mr. Bouhaja accused appellant of immoral conduct.

Mr. Aridi submitted a statement alleging that Mr. AlHaise failed to treat appellant with respect and discriminated against him based on his national origin. He also stated that Mr. Bouhaja accused appellant of improper relations with a female student. Mr. Aridi stated that the employing establishment asked Mr. Bouhaja to publicly apologize to appellant.

Appellant and Mr. Ebrahim testified at the oral hearing on July 15, 2003. Appellant asserted that Mr. AlHaise made fun of him in front of the student in 1998. He stated that Mr. AlHaise stated that Egyptians were not as smart as Iraqis in front of appellant's coworkers and to the students. Mr. Ebrahim suggested that Mr. AlHaise winked when he stated that appellant was a wonderful teacher making the statement into a joke. He and appellant stated that Mr. AlHaise yelled at appellant during a cookery class in 1998. Appellant also asserted that Mr. AlHaise came to his office and aggressively asked why appellant had a student with him after hours.

Appellant alleged that Mr. Bouhaja stated that appellant should not maintain friendships with Christians and that when appellant refused he informed colleagues that appellant was no longer a Muslim. Appellant further alleged that Mr. Bouhaja and a female student fabricated sexual harassment charges against him. He stated that he demanded a public apology from Mr. Bouhaja. Specifically, that Mr. Bouhaja stated, "I am sorry for what I accused you for and it turned to be untrue." Appellant stated that following this incident he was transferred.

The employing establishment responded to appellant's testimony on August 13, 2003 denying any harassment or discrimination. Luba Grant, the former Dean of the Middle East School, stated that appellant and Mr. AlHaise had a personality conflict, appellant refused to transfer and that Mr. AlHaise volunteered to move to another team. Mr. Grant denied that Mr. Bouhaja fabricated accusations against appellant. He stated that a student informed Mr. Bouhaja that appellant made her uncomfortable, that Mr. Bouhaja informed appellant of this situation, that appellant denied any misconduct and that appellant's statements were accepted as factual. Mr. Grant stated that appellant accused Mr. Bouhaja of fabricating the incident and demanded an apology. He noted that Mr. Bouhaja refused to apologize for fabricating the incident, but eventually agreed to state, "I'm sorry for any misunderstanding that might have arisen from this incident." Appellant then requested and received a transfer.

Mr. Bouhaja denied making statements that appellant should not be friends with Christians, he asserted that a student complained that appellant was sexually harassing her, and he asserted that he stated that he was sorry appellant believed that he was "trying to get him."

By decision dated October 2, 2003, the hearing representative affirmed the Office's October 22, 2002 decision finding that appellant had failed to substantiate a compensable factor of employment.¹

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 illness has some connection with the employment but nevertheless does not come within the concept 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 compensable. 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 to hold a particular position.²

As a general rule, an employee's emotional reaction to an administrative or personnel matter is not covered under the Federal Employees' Compensation Act. But error or abuse by the employing establishment in what would otherwise be an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in the administration of a personnel matter, may afford coverage. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.³

¹ Following the filing of the appeal with the Board on December 24, 2003, the Office issued a decision on February 3, 2004 reviewing appellant's claim on the merits and denying modification of the October 2, 2003 decision. The Board and the Office may not have simultaneous jurisdiction over the same issues in the same case. The Board acquires jurisdiction at the time of filing of the appeal and any decision rendered by the Office after that date are null and void. *Jimmy W. Galetka*, 43 ECAB 432, 434 (1992). Therefore, the February 3, 2004 decision of the Office is null and void.

² *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

³ *Martha L. Watson*, 46 ECAB 407 (1995).

For harassment or discrimination to give rise to a compensable disability under the Act, there must be evidence that harassment or discrimination did, in fact, occur. Mere perceptions of harassment or discrimination are not compensable under the Act. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred. To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.⁴

ANALYSIS

Appellant attributed his emotional condition to alleged actions by his supervisors and coworkers. He stated that the employing establishment had a loose grading system, issued contradictory instructions and briefings and allowed the students to play one teacher against another. He alleged that his team leader Mr. Bidawid showed favoritism to a coworker, Ms. Machtoub, and instructed appellant to teach her classes. Appellant alleged that he did not receive credit for all the hours that he taught, and that all of his teaching hours were not recorded. He asserted that his students were not allowed to write him letters of approbation. Allegedly, Mr. Bidawid failed to prosecute two students that appellant felt were cheating and he complained that appellant graded too harshly. Appellant alleged that he was denied a requested transfer, but objected to his transfer to another team on March 1, 2002. He stated that due to his transfer he was not able to participate in the graduation of the class he had been teaching.

Appellant's supervisor Mr. Malek, chair of the department, denied appellant's allegations on March 26 and April 16, 2002. Mr. Malek stated that there were no discrepancies in the teaching schedule, but that appellant should provide him with an inventory of hours if he had questions; that the employing establishment grading system was not loose; that students did not play one teacher against the other; that the students were properly disciplined, and in fact the students accused of cheating were found to be innocent; and that appellant's transfer was due to his request. Mr. Malek noted that appellant requested a transfer because of continuous problems between himself, the teaching team and some students, but later changed his mind. He stated that he moved appellant for mission support, the student's benefit and teamwork. Mr. Malek noted that appellant could have attended graduation.

In support of his claim, appellant submitted several letters of appreciation from students. Mr. Malek noted that students have the opportunity to provide letters of recommendation for teachers, but that teachers are asked not to personally solicit student feed back.

Regarding appellant's allegations that the employing establishment improperly assigned work duties, that he was denied a transfer and then inappropriately transferred, that appellant was not entitled to solicit letters of recommendation and that the employing establishment failed to issue appropriate disciplinary actions, the Board finds that these allegations related to administrative or personnel matters, unrelated to appellant's regular or specially assigned work

⁴ *Alice M. Washington*, 46 ECAB 382 (1994).

duties.⁵ Appellant has submitted no evidence that the employing establishment acted unreasonably in these personnel matters.

Appellant attributed his emotional condition to alleged incidents of verbal abuse. The Board has held that, while verbal abuse may constitute a compensable factor of employment, this does not imply that every statement uttered in the workplace will give rise to coverage under the Act.⁶ Appellant stated that Mr. Bidawid called him an idiot on February 25, 2002 and that both Mr. Bidawid and Ms. Machtoub cursed at him on that date. In his April 16, 2002 statement, Mr. Malek noted that appellant complained that Mr. Bidawid and Ms. Machtoub spoke to him in a derogatory manner and reported that he instructed Mr. Bidawid to be more careful with his words. He noted that appellant reported that Mr. Bidawid had called him an idiot, but stated that he had not overheard this remark. Appellant has not submitted sufficient factual information to substantiate that Mr. Bidawid called him an idiot or that Mr. Bidawid and Ms. Machtoub cursed at him on February 25, 2002. As appellant has not substantiated the alleged verbal abuse, the Board cannot accept the event as factual and appellant has not established a compensable employment factor regarding this allegation.

Appellant alleged that a coworker, Ms. El Nimri, stated that she heard that on February 28, 2002 a lady accused appellant of acting and stated that all Egyptians are actors. He also asserted that Ms. El Nimri stated on another occasion that “All Muslims need to be killed for the world to be rid of their evil.” In a statement dated April 26, 2002, Sabur Newman stated, “I heard on February 28, 2002 that a lady accused [appellant] when he fell down that he was acting and deserved an Oscar and all Egyptians are actors.” Mr. Malek investigated the alleged statements and noted that Ms. El Nimri denied making the statements. Furthermore, Mr. Sidhom, whom appellant stated was present at the time of the statements, denied hearing Ms. El Nimri suggest that all Muslims should be killed. Appellant has also failed to substantiate that these statements were made as alleged. Ms. El Nimri denied making the statements and appellant has submitted no credible evidence in support of his allegation. Although Mr. Newman supported that Ms. El Nimri suggested that appellant was acting when he collapsed, his statement is ambiguous as to whether he actually heard the statement or whether he heard a rumor that she had made the statement. As appellant has failed to establish that the statements were made as alleged he has failed to substantiate verbal abuse in this instance.

Appellant alleged that Mr. AlHaise, his former team leader, denigrated appellant in front of his students and yelled at him on one occasion in a cookery class. Appellant also alleged that Mr. AlHaise discriminated against him due to his national origin by suggesting that Egyptians were not as smart as Iraqis. In support of his claims, appellant submitted several witness statements. On April 27, 2002 Mr. Ebrahim, a coworker, stated that appellant had problems with Mr. AlHaise who was transferred. Mr. Ebrahim alleged that Mr. AlHaise’s transfer proved his fault. In his May 28, 2003 statement, Mr. Ebrahim stated that Mr. AlHaise made fun of the fact that appellant was Egyptian and that he insulted appellant in front of his students using words and gestures which were degrading. Mr. Aridi stated that Mr. AlHaise and appellant had

⁵ See *Janet I. Jones*, 47 ECAB 345, 347 (1996); *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gates*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

⁶ *Judy L. Kahn*, 53 ECAB ____ (Docket No. 00-457, issued February 1, 2002).

continuous problems and disagreements. Mr. Aridi stated that the department supervisor had to move Mr. AlHaise to another team due to these “problems and troubles.” In an additional statement dated April 26, 2000, Mr. Aridi stated that Mr. AlHaise discriminated against appellant due to his national origin. Mr. Dawod stated that Mr. AlHaise made constant fun of appellant in front of other instructors and that all the team members reported Mr. AlHaise’s conduct to the dean resulting in his removal from the team. In a second statement dated June 6, 2003, Mr. Dawod stated that Mr. AlHaise “made a gesture what resembled that [appellant] was not worth of any human being’s treatment.” He also noted that Mr. AlHaise treated appellant differently from other team members. The employing establishment responded and stated that Mr. AlHaise and appellant had a personality conflict and that appellant refused to transfer to another team. Mr. AlHaise volunteered to move to another team.

In this case, appellant has not provided a description of the harassing and discriminatory events with the necessary specificity to establish harassment or discrimination by Mr. AlHaise. While it is clear that appellant and his witnesses believed that appellant was subjected to discriminatory actions based on his national origin, and that Mr. AlHaise “made fun” of appellant, appellant and his witnesses failed to provide any specific dates or describe specific instances of discriminatory statements or compensatory discriminatory actions on the part of Mr. AlHaise. The lack of specificity regarding the alleged discriminatory actions and remarks undermines appellant’s allegations.⁷

Appellant alleged that he was subjected to harassment and discrimination based on his religion and national origin through the above incidents and also due to the actions of Mr. Bouhaja, his previous team leader. Appellant stated that Mr. Bouhaja instructed him to end his friendship with Christian coworkers and that when appellant refused that Mr. Bouhaja fabricated a charge of sexual harassment against appellant in collusion with one of his students.

Mr. Ebrahim stated on April 27, 2002 that Mr. Bouhaja discriminated against appellant based on his religion and national origin and that he apologized to appellant. Mr. Ebrahim stated that Mr. Bouhaja believed that a Muslim and a Christian should not be friends, and that Mr. Bouhaja discriminated based on national origins. Mr. Ebrahim stated that Mr. Bouhaja apologized to appellant in a meeting. In his May 28, 2003 statement, Mr. Ebrahim stated that Mr. Bouhaja accused appellant of immoral conduct. Ms. Agib stated that Mr. Bouhaja apologized to appellant at a meeting. Mr. Aridi stated that appellant was unhappy due to treatment and accusations by Mr. Bouhaja and that Mr. Bouhaja had to apologize to appellant. Mr. Aridi in his April 26, 2000 statement asserted that Mr. Bouhaja accused appellant of an improper relationship with a female student and that when these charges were disproved Mr. Bouhaja apologized to appellant at a faculty meeting.

The employing establishment stated that a student reported to Mr. Bouhaja that appellant made her uncomfortable, that Mr. Bouhaja informed appellant of the allegation and appellant denied any wrongdoing. When the employing establishment accepted appellant’s denials as factual, appellant accused Mr. Bouhaja of fabricating the episode and demanded a formal apology. Mr. Bouhaja apologized by stating that he was sorry for any misunderstanding that

⁷ *Jesse J. Starcher*, 51 ECAB 314, 317-18 (2000).

might have arisen. Mr. Bouhaja denied making statements that appellant should not be friends with Christians. He further stated that he reported the student's allegations to appellant, but denied apologizing to appellant for the incident.

While appellant has alleged specific incidents of harassment by Mr. Bouhaja, that he fabricated a sexual harassment complaint, the evidence is not sufficient to substantiate that the incidents occurred as alleged. The employing establishment and Mr. Bouhaja denied that he fabricated the claim of sexual harassment against appellant. While appellant submitted witnesses' statements that Mr. Bouhaja apologized for any misunderstanding resulting from his investigation, the witnesses did not provide any first hand knowledge of wrongdoing on the part of Mr. Bouhaja.

Appellant also alleged that Mr. Bouhaja forbade his friendship with Christians. Mr. Bouhaja denied this allegation. While Mr. Ebriham substantiated that Mr. Bouhaja did not believe that Muslims and Christians should socialize, he did not support that Mr. Bouhaja had forbidden appellant engage in inter-religious friendships as alleged. The Board finds that appellant has not submitted sufficient corroborative evidence to substantiate harassment or discrimination on the part of Mr. Bouhaja.

On February 6, 2002 appellant's apartment door was broken. Appellant also received threatening telephone calls at home and at work accusing him of pandering as he did not report the relationship between Mr. Bidawid and Ms. Mashtoub. When appellant arrived at work on February 28, 2002, he realized that personal belongings were missing from his desk including a list of extra hours worked and the tape of the threatening messages. Mr. Malek reported that he questioned appellant's office mates regarding the missing items. He stated that he instructed appellant to call the police and report the missing items but that he did not do so. Although the theft of items from appellant's desk at work bears some relationship to his employment, this does not relate to appellant's regular or specially assigned duties and does not constitute a compensable factor of employment. Appellant has not submitted any evidence establishing an employment nexus with the vandalism of his apartment. Without any evidence establishing that these events were related to appellant's regular or specially assigned duties, appellant has not established they were compensable factors of employment.

CONCLUSION

The Board finds that as appellant has failed to substantiate a compensable factor of employment, the Office properly denied his claim for an emotional condition arising from his federal employment.⁸

⁸ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record. See *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

ORDER

IT IS HEREBY ORDERED THAT the October 2, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 26, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member