

board with handwritten words in large letters, "Nonmember Denise Gamble." She took the posting and confronted Mark Nitkiewicz, a union vice-president, in the presence of Supervisors Mercoda Schmidt and Sue Wethli. Appellant told Mr. Nitkiewicz to remove her name from the board because it was no one business and everyone who worked at the employing establishment was aware she was not a union member. On Wednesday, December 3, 1998 she was informed when she entered the workplace that her name was back on the union bulletin board. Appellant once again removed the notice from the board and asked Ms. Wethli and Mr. Nitkiewicz to accompany her to the union office. She again asked Mr. Nitkiewicz not to post her name, noting that it constituted a personal attack on her by Shawn Hiebel, a union steward. Mr. Nitkiewicz asserted, however, that the union was within its rights to post a list of nonmembers on its bulletin board and would continue to post such a list. Appellant alleged that her name was not only on the nonmember list but had also been highlighted in yellow. She alleged that she found mice droppings in her coffee and that someone spit in her coffee. Appellant alleged that she was subjected to derogatory comments and smears whenever she passed by Coworkers Terry Regan and Jay McCauley. Appellant further alleged that Mr. McCauley drove a tow motor directly toward her as if he was about to strike her, then avoided her only at the last moment.

Appellant indicated that she had once been a union member but had since relinquished her membership. She alleged that Mr. Nitkiewicz approached her when she quit the union and angrily demanded why she had done so. When her answers failed to satisfy him, appellant asked Mr. Nitkiewicz to leave her alone. Appellant also related a specific instance where she had a verbal confrontation with Mr. Hiebel, a union steward. She stated that Mr. Hiebel approached her in an intimidating manner, brought his face two inches from her face and swore at her. Appellant stated that Supervisors Schmidt, Phil Pascarelli and Bob Spencer witnessed this episode. She further related that, one week later, Mr. Hiebel again became angry and started pushing all-purpose containers (APCs), mail containers on wheels, weighing about 240 pounds towards her.

In a report dated December 3, 1998, Dr. Nathan Moore, Board-certified in family practice, stated that appellant appeared very upset due to problems at work that she believed were due to being a nonunion worker. Dr. Moore diagnosed work-related stress.

In a March 11, 1999 statement, Ms. Schmidt, the supervisor of distribution operations, corroborated that appellant's verbal confrontation with Mr. Hiebel had occurred as alleged. Ms. Schmidt stated that appellant and Mr. Hiebel had engaged in a loud, profanity filled argument. Ms. Schmidt noted that appellant complained about having her name posted on a list of union nonmembers but that Mr. Nitkiewicz told her that it was the union's right to publicly publish the names of nonunion members.

In a March 12, 1999 statement, Rich Widdowson, the manager of mail processing operations, stated that appellant had performed supervisory duties between January 1994 and January 1996. Appellant had encountered difficulties because she had to work with mailhandlers whom she had previously supervised. Mr. Widdowson corroborated that appellant's name was posted on the bulletin board as a nonunion member. He noted that, according to the national contract, the union was permitted to post the names of nonunion members so long as it was not done in a derogatory manner. Mr. Widdowson asserted that appellant did not have the right to remove her name.

In a statement received by the Office April 12, 1999, appellant stated that she had been a supervisor for two years, during which time she had discussions with Mr. Widdowson regarding how she should deal with Mr. Regan and Mr. McCauley, mailhandlers whom she had observed standing on the forks of a forklift while it was upraised from the ground, in violation of safety rules. Appellant was instructed to discipline the employees. Since she returned to her capacity as mailhandler, Mr. Regan and Mr. McCauley retaliated against her by engaging in a pattern of abuse and harassment.¹

By decision dated September 16, 1999, the Office denied appellant's claim, finding that the evidence of record failed to establish that an emotional injury was sustained in the performance of duty.

Appellant requested a hearing, which was held on February 16, 2000. At the hearing, appellant's attorney noted that the union had placed appellant's name on a nonunion member list on the union bulletin board, in full view of all of the employees. When asked why that was stressful to her, appellant stated that Mr. Hiebel had previously become very angry with her for moving a container. She alleged that Mr. Hiebel moved close to her and called her a f—g b—ch. Appellant further stated that the next day he took containers placed on wheels weighing approximately 240 pounds, called APCs and “flung” them toward her. Although she was not struck by the APCs she felt Mr. Hiebel was trying to intimidate her and was using the union to retaliate against her.

By decision dated June 22, 2000, an Office hearing representative set aside the September 16, 1999 decision, finding that appellant had established two compensable factors of employment: a verbal altercation with Mr. Hiebel and the fact that she experienced difficult working conditions because she worked with two employees she had previously reprimanded as a supervisor. The hearing representative remanded the case for further development of the medical evidence.

The Office referred appellant to Dr. Peter L. Longstreet, a Board-certified psychiatrist, who stated in a September 2, 2000 report that appellant had adjustment disorder with anxiety causally related to her work environment. Dr. Longstreet stated:

“We reviewed the SOAF [statement of accepted facts] together and she concurred with each point. She described having been in a supervisory position wherein she disciplined a few male workers who subsequently lost pay. Eventually, she was reassigned as a mailhandler and found herself working along side those very individuals whom she had previously disciplined. She experienced significant tension and outright belligerence from those persons. Even her manager, Mr. Widdowson, believed this ‘resulted in a difficult situation’ for her. During this time, which she reports as December 1996 through January 2000, she experienced disturbed sleep, high levels of anxiety, decreased appetite with weight loss, episodes of depressed mood, hopelessness, impaired concentration

¹ This statement was submitted in conjunction with a grievance appellant filed in 1997. The statement contains descriptions of other encounters with coworkers and supervisors, but these incidents do not appear to be the subject of the present claim.

and restlessness. She reports having been told that she was 'not good for morale for the others on the floor' and so was removed from the main floor and made [it] to work in a room in isolation. As she has not had to work with those specific persons since January 1997, she ... had not suffered from any of the symptoms described above."

Dr. Longstreet advised that when appellant was faced with the stressor of having to work alongside particular individuals, she experienced heightened anxiety. He stated that appellant's emotional condition was caused by her work environment, that the aggravation was indicated only insofar as she was made to work with the persons referred to above. Dr. Longstreet related appellant's "fear of being near them" and her anxiety at the thought of having to return to the same work environment with her former coworkers. He opined that he expected appellant's symptoms to recur if she is made to work in the same environment in which she previously worked. Dr. Longstreet recommended that appellant could return to work, but in a separate environment from the individuals whom she had previously disciplined. He concluded that if she were to return to the same environment he would fully expect her anxious symptoms to return.

Based on Dr. Longstreet's opinion that the Office accepted the claim for an adjustment disorder with anxiety on September 27, 2000. Appellant returned to her regular job and the employing establishment placed her in a work area where she would avoid contact with the employees she had previously disciplined.

On November 27, 2000 the Office received a photocopied picture from appellant, which showed a letter tray, purportedly her own, on which were written the words, "Denise is a loser." Appellant alleged that this picture was taken on October 19, 2000 the day she returned to work from surgery.

On January 31, 2001 appellant contacted the Office and alleged that one of the individuals she was not supposed to work with had been moved right next to her. In a February 8, 2001 interoffice memorandum, Lou Fallon, an employing establishment supervisor, noted that the workplace building was very large and that appellant did not work in the same area with the formerly disciplined employees. He stated that appellant would inevitably encounter the employees she once supervised no matter what tour she was on as it was almost impossible to prevent such contact. Mr. Fallon indicated that appellant worked on a machine and that, on occasion, one of the employees would push a container past her. He stated that appellant was only exposed to contact with her former employees intermittently and that management watched her to make sure she was not being harassed.

John Patton, the manager of district operations and appellant's supervisor, submitted a February 8, 2001 statement. He stated:

"[Appellant] is currently on limited duty until she is recovered from surgery stemming from a work[-]related injury. [The] [d]uty that we are currently providing her is out of her craft or work group. She verifies that mail is sorted to the proper trays on a bar-code letter sorting machine. She does this for the first hour or so of the shift and then works on a flat mail sorting machine for the

remainder. It is operationally necessary to locate 6 to 8 letter storage racks at most of these machines. These storage racks are 3 feet by 4 feet by 6 feet high and have wheels so they roll. The mailhandler craft employees perform the work of transporting the storage racks to the sorting machines. The employees [appellant] disciplined are mailhandlers. One of these employees brings these storage racks to sorting machines in sets of 3, towed by a battery powered riding tow vehicle. He then dismounts the tow vehicle and places the racks adjacent to the different sorting machines. Again, no racks are taken directly to the machine [appellant] is working on. The amount of time taken to stage all the racks at the machines is approximately one hour to one and a half hours. The racks are towed from a separate part of the building.

“I have asked [appellant] on two separate occasions if the employee she disciplined has made comments to her. She said both times, not, but I don’t want anything to happen or get started.”

On November 16, 2001 appellant filed a Form CA-2 a recurrence of disability claim, alleging that she had sustained a recurrence of her emotional condition on November 16, 2001 causally related to her accepted adjustment disorder. She stated:

“On November 16, 2001 John Gamble [appellant’s husband] and I were walking by the union board and noticed that the union had updated the scab list. We tore down the list and took it to Supervisor Wethli. Shortly, there after Mark Nitkiewicz put up another scab list. John and I were standing there and John tore the list down again, at which time Mark came over ... yelling that we could not do this. John [and] I both said that we will not tolerate our names on the board[,] that it was put up in a personal matter[,] not in union business.”

Appellant also asserted that the employing establishment had not complied with Dr. Longstreet’s restrictions to keep her separated from employees she had formerly supervised. Appellant noted that Mr. McCauley continued to come out on the dock, near where she used to work and that her requests to management to prevent this from occurring had not been heeded. Appellant alleged that she had another confrontation with Mr. Hiebel. In a February 23, 2002 statement, appellant claimed that Mr. McCauley stood one hour per day in her workplace.

In a letter dated May 27, 2002, Mr. Gamble, appellant’s husband, submitted a statement which indicated that on November 16, 2000 he noticed that the “scab” list was posted on the union bulletin board containing his name and his wife’s name enhanced in colors. Mr. Gamble tore down the note and showed it to Ms. Wethli. He asked Ms. Wethli to tell the union to discontinue disparaging himself and his wife in this manner. Shortly, thereafter, however, the list of nonunion members was again placed on the bulletin board. Mr. Gamble returned again to remove the list, only to be approached by Mr. Nitkiewicz, who told him he was not allowed to remove the list. Mr. Gamble indicated that after this confrontation, his wife left work and had not returned.

In a statement received by the Office on June 4, 2002, appellant stated that she had been placed in a work environment where she was separated from antagonistic employees for about

five of the eight hours she worked. She alleged that on December 11, 2000 the floor supervisor gave Mr. Regan the job of setting up the automation machines, which meant that they were separated for only two and one-half hours per eight-hour shift. Appellant spoke to two of her supervisors about this situation and was told that they were investigating what management's rights were with regard to her restrictions, but assured her that this situation with Mr. Regan would only continue for a few weeks.

In a January 31, 2001 report and an undated report received by the Office on June 4, 2002, Dr. Barbara L. Edwards, a clinical psychologist, stated that appellant had attempted to return to work but was ultimately unable to cope with her working conditions after experiencing a few months of continuing harassment. Dr. Edwards asserted that the employing establishment had failed to implement Dr. Longstreet's recommendations that appellant not work in close proximity to employees she formerly supervised. She also stated that appellant had tried to transfer to another area but had not been successful. Dr. Edwards reiterated the diagnosis of adjustment disorder and concluded that appellant was not able to return to work with the employing establishment at her current worksite.

The Office developed the claim as one of a new injury. By decision dated May 7, 2002, the claim was denied because appellant did not establish a compensable factor. In a separate Office decision pertaining to appellant's claim, dated July 15, 2002, the Office denied the recurrence of disability claim.

By letter dated October 23, 2002, appellant's attorney requested a review of the written record. He argued that appellant sustained a recurrence of disability because management failed to adhere to Dr. Longstreet's restrictions. He advised that appellant had experienced stress due to the way she had been mistreated by union members, which the employing establishment had been unable or unwilling to prevent.

Appellant submitted an undated report from Dr. Edwards, who stated:

“[Appellant] had been a supervisor for the [employing establishment] for a while and then returned to her job as a mailhandler. She was forced to work with other employees that she had disciplined. [Appellant] also dropped out of the union. This led to continued harassment and intimidation by those employees. She has made numerous attempts at returning to work. An independent psychiatric evaluation was conducted at the request of the ... Office. Dr. Longstreet also concluded that [appellant's] symptoms of depression and anxiety were directly related to her work environment and indicated that she should not be forced to work in the same area as those other workers. He concluded, as did I, that as long as she was in the vicinity of these workers her acute symptoms would occur. The [employing establishment] has consistently refused to make accommodations for her. At each unsuccessful attempt her symptoms returned and intensified. While she was recovering from a shoulder injury she was placed in another position. Even though this was in another area, at least one [of] the men would make a point to walk by her. Her name has been posted on the board as a nonunion member, her time card moved around, messages left for and the like. [Appellant] began to feel increasingly concerned for her safety.

“[Appellant] will not be able to return to work at [her previous worksite]. She has made repeated attempts and each time has suffered a relapse of her symptoms. This is directly a result of the reasonable accommodations that Dr. Longstreet and myself have recommended not being implemented.... There is now such an adversarial relationship between her and the management that she would not be able to work anywhere in that facility. She has applied for at least one transfer, which would remove her from the building but was not considered. I am concerned that she may not be able to get another job within the postal system because of all the problems that have occurred. The only restrictions that have been placed on [appellant] are that she not work in the same building as those she once supervised. Psychologically, she would be able to handle the stress of any job unless it involved returning to [her former worksite].”

The employing establishment submitted a November 15, 2002 letter from Mr. Patton, who indicated that appellant was primarily upset by the continued posting of her name on the union board. Mr. Patton advised appellant that management had no control over the union’s postings. Mr. Patton also stated that he believed appellant’s contact with the persons previously found to have harassed her had been minimal but noted that all of the individuals continued to work in the same building so that some degree of contact was unavoidable. On December 11, 2002 the Office combined the two claims in a review of the written record.

By decision dated July 10, 2003, an Office hearing representative affirmed the Office’s May 7 and July 15, 2002 decisions on the grounds that appellant did not establish a compensable employment factor. The Office found that, although appellant had incidental contact with employees with whom she had previously supervised and with whom she had experienced difficulties, she did not establish that she was subjected to harassment by these individuals.

LEGAL PRECEDENT -- ISSUE I

To establish that an emotional condition was sustained in the performance of duty there must be factual evidence identifying and corroborating employment factors or incidents alleged to have caused or contributed to the condition, medical evidence establishing that the employee has an emotional condition and rationalized medical opinion establishing that compensable employment factors are causally related to the claimed emotional condition.² There must be evidence that implicated acts of harassment or discrimination did, in fact, occur supported by specific, substantive, reliable and probative evidence.³ In order to establish her claim for an emotional condition, appellant must submit rationalized medical evidence establishing that she has an emotional or psychiatric disorder and that such disorder is causally related to the accepted compensable employment factor.⁴

If a claimant does implicate a compensable factor of employment, the Office should then determine whether the evidence of record substantiates that factor. Only when the matter

² See *Debbie J. Hobbs*, 43 ECAB 135 (1991).

³ See *Ruth C. Borden*, 43 ECAB 146 (1991).

⁴ See *William P. George*, 43 ECAB 1159, 1168 (1992).

asserted is a compensable factor of employment and the evidence establishes the truth of the matter asserted may the Office then base its decision to accept or reject the claim on an analysis of the medical evidence.⁵

ANALYSIS -- ISSUE I

Appellant has alleged, in general terms, harassment from Messrs. Nitkiewicz, McCauley, Regan and Hiebel, but has not provided a description of specific incidents or sufficient supporting evidence to substantiate her allegations.⁶ To that end, appellant submitted an undated letter to the Office, asserting that on the day she returned to work from surgery, October 19, 2000, she found a letter tray at her station on which the words "Denise is a loser" were written and enclosed a photograph. Appellant, however, failed to establish that this constituted harassment on the part of the aforementioned individuals or that she experienced harassment from these employees during the periods and dates she alleged these episodes occurred.

While appellant may have had intermittent contacts in the workplace with employees with whom she had experienced difficulties, appellant has failed to demonstrate that these occasional contacts constitute a compensable employment factor. The record contains conflicting accounts regarding the nature and extent of these contacts. Appellant asserted that she encountered antagonistic employees on a daily basis, but Mr. Patton specifically refuted these assertions in a February 8, 2001 statement. Mr. Patton stated that appellant was working in an area with several sorting machines lined up parallel to each other, where mailhandlers -- some of whom had previously experienced problems with appellant -- would approach from a separate part of the building in a tow vehicle. The mailhandler would dismount the tow vehicle, place the storage racks adjacent to the different sorting machines and then depart the area. No racks were to be delivered directly to the machine on which appellant was working. Mr. Patton explained that this entire process would take approximately one hour to one and a half hours. He also contended that he asked appellant on two separate occasions whether the employee she formerly disciplined had made comments to her, but she denied that they had done so. In a February 23, 2002 letter to the Office, appellant stated that she had complained to Ms. Wethli that Mr. McCauley, one of the employees whom she had formally reprimanded while a supervisor, had been coming out to the dock every day for about one hour and just standing around the area where she worked. In a February 23, 2002 letter, Mr. Patton noted that, although appellant indicated that Mr. McCauley stayed on the clock while not working from 4:00 a.m. to 5:30 a.m., Mr. McCauley started work at 5:00 a.m. with the exception of a few Sundays when he began work at 4:00 a.m.⁷ Although appellant made generalized allegations regarding foreign matter being placed in her coffee, derogatory telephone messages being left on her answering machine and having her time card moved, she failed to substantiate these allegations.

⁵ *Id.*

⁶ See *Joel Parker, Sr.*, 43 ECAB 220 (1991). (The Board held that a claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence).

⁷ The record contains an undated handwritten statement from a coworker of appellant's, Fred Gravatt, who indicated that he had observed Mr. McCauley on the loading dock in the same area as appellant for a period of one week to 12 days.

Although the Board has recognized the compensability of verbal abuse in certain circumstances, this does not imply that every statement uttered in the workplace will give rise to coverage under the Federal Employees' Compensation Act.⁸ Appellant has not shown how such isolated comments, assuming they did occur, would rise to the level of verbal abuse or otherwise fall within the coverage of the Act.⁹ Nor has appellant provided factual support for her allegations that her supervisors created or permitted a hostile work environment.¹⁰ Appellant made numerous allegations concerning the posting of her name on the union bulletin board. She asserted that management's failure to heed her concerns over this issue was the precipitating factor in her decision to leave work on November 16, 2001. However, the employing establishment refuted these allegations by noting on several occasions that the union had certified its right to post such a list on its bulletin board.

The Office reviewed appellant's allegations of harassment, abuse and mistreatment and found that they were not substantiated by the evidence of record. To that end, the Board finds that the Office properly found that the episodes of harassment cited by appellant did not factually occur as alleged by appellant, as she failed to provide any corroborating evidence for her allegations. As such, appellant's allegations constitute mere perceptions or generally stated assertions of dissatisfaction with a certain superior at work, which do not support her claim for an emotional disability.¹¹ For this reason, the Office properly determined that these incidents constituted mere perceptions of appellant and were not factually established. Accordingly, appellant has failed to establish that she was subjected to harassment or mistreatment at the workplace, thereby she has not established a factor of employment in this regard.

The Board further finds that the administrative and personnel actions taken by management were not erroneous or abusive and are, therefore, not considered factors of employment. An employee's emotional reaction to an administrative or personnel matter is not covered under the Act, unless there is evidence that the employing establishment acted unreasonably.¹² In the instant case, appellant has presented no evidence that the employing establishment acted unreasonably or committed error with regard to the incidents of alleged unreasonable actions involving personnel matters nor has appellant demonstrated that the employing establishment acted unreasonably or committed error or abuse in discharging its administrative duties. Appellant's allegations that the employing establishment failed to take appropriate action in preventing her from working around employees with whom she had experienced problems, in accordance with Dr. Longstreet's instructions, were not established as factual by the weight of evidence of record. The statements submitted by appellant and her

⁸ *Harriet J. Landry*, 47 ECAB 543, 547 (1996).

⁹ *See, e.g., Alfred Arts*, 45 ECAB 530, 543-44 (1994) and cases cited therein (finding that the employee's reaction to coworkers' comments such as "you might be able to do something useful" and "here he comes" was self-generated and stemmed from general job dissatisfaction). *Compare Abe E. Scott*, 45 ECAB 164, 173 (1993) and cases cited therein (finding that a supervisor's calling an employee by the epithet "ape" was a compensable employment factor).

¹⁰ *Merriett J. Kauffmann*, 45 ECAB 696 (1994).

¹¹ *See Debbie J. Hobbs*, *supra* note 2.

¹² *See Alfred Arts*, *supra* note 9.

supervisors at the employing establishment substantiate that she occasionally encountered the employees with whom she had problems and was supposed to avoid. Appellant's supervisors, however, denied that appellant was being forced to work alongside these employees. The employing establishment asserted that it had endeavored to accommodate her concerns regarding contact with these employees and had attempted to ensure that she had been placed in a work area separate from these employees. This factual scenario, therefore, does not constitute a factor of employment. Thus, appellant has failed to submit sufficient evidence to corroborate her allegations that the employing establishment committed error or abuse in failing to separate her from antagonistic coworkers. Accordingly, a reaction to such factors does not constitute an injury arising within performance of duty. The Office properly concluded that in the absence of employing establishment error or abuse such personnel matters were not compensable factors of employment.¹³

LEGAL PRECEDENT -- ISSUE II

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.¹⁴

ANALYSIS -- ISSUE II

In the instant case, the record does not contain any medical opinion showing a change in the nature and extent of appellant's injury-related condition. Indeed, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her condition or disability as of November 16, 2001 to her employment injury. For this reason, she has not discharged her burden of proof to establish her claim that she sustained a recurrence of disability as a result of her accepted employment injury.

The only medical evidence which appellant submitted consisted of the reports from Dr. Edwards. These reports provided a history of injury and a diagnosis of her accepted adjustment disorder condition and indicated very generally that appellant had experienced a relapse of this condition because the employing establishment allegedly failed to comply with Dr. Longstreet's restriction to keep her separated from antagonistic coworkers she had formerly supervised. However, none of Dr. Edwards' reports contained a probative, rationalized medical opinion sufficient to establish that appellant's disability as of November 16, 2001, was causally related to her accepted emotional condition. Dr. Edwards stated that appellant had attempted to return to work but was ultimately unable to cope with her working conditions after experiencing a few months of continuing harassment. He also restated other allegations which appellant made in her emotional condition claim; *e.g.*, that she was transferred to another position while

¹³ 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).

¹⁴ *Terry Hedman*, 38 ECAB 222 (1986).

recovering from her shoulder injury which exposed her to her former coworkers, that her name was been posted on the board as a nonunion member, that her time card was moved around, that derogatory messages were left for her, *etc.*, which left her increasingly concerned for her safety. However, these were factual allegations, most of which were not corroborated, which did not constitute medical evidence required to establish that she had experienced a recurrence of disability as of November 16, 2001.

The reports from Dr. Edwards do not constitute sufficient medical evidence demonstrating a causal connection between appellant's accepted adjustment disorder condition and her alleged recurrence of disability as of November 16, 2001. Causal relationship must be established by rationalized medical opinion evidence. The reports in the record failed to provide an explanation in support of appellant's claim that she was totally disabled as of November 16, 2001. Thus, the reports from Dr. Edwards do not establish a worsening of appellant's condition and, therefore, did not constitute a probative, rationalized opinion demonstrating that a change occurred in the nature and extent of the injury-related condition.

In addition, the Board finds that the evidence fails to establish that there was a change in the nature and extent of appellant's limited-duty assignment such that she no longer was physically able to perform the requirements of her modified mailhandler job. The record demonstrates that appellant returned to work October 19, 2000 and was placed in a part of the worksite, which enabled her to adhere to Dr. Longstreet's restrictions to avoid working in close proximity with antagonistic coworkers. Appellant has submitted insufficient evidence to establish that the employing establishment ignored or violated these restrictions. Further, there is nothing in the record indicating that the modified job as mailhandler ever required her to exceed these restrictions. Appellant stopped working on November 16, 2001 and submitted numerous allegations that the employing establishment knowingly tolerated situations where these coworkers would work in close proximity with her for long periods of time or would frequently pass by her, resulting in an aggravation of her accepted emotional condition. These allegations, however, were refuted by the employing establishment. Thus, appellant has submitted insufficient additional factual evidence to support a claim that a change occurred in the nature and extent of her limited-duty assignment during the period claimed. Accordingly, as appellant has not submitted any factual or medical evidence supporting her claim that she was totally disabled from performing her modified mailhandler assignment on November 16, 2001 as a result of her employment, appellant failed to meet her burden of proof. Thus, the Office properly found in its July 15, 2001 decision that appellant was not entitled to compensation based on a recurrence of her employment-related disability.

As there is no medical evidence addressing and explaining why the claimed condition and disability as of November 16, 2001 was caused or aggravated by her employment injury, appellant has not met her burden of proof in establishing that she sustained a recurrence of disability.

CONCLUSION

The Board finds that appellant has not established that she sustained an emotional condition in the performance of duty and appellant has not established that she sustained a recurrence of disability as of November 16, 2001 causally related to her accepted adjustment disorder.

ORDER

IT IS HEREBY ORDERED THAT the July 10, 2003 and July 15, 2002 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: May 25, 2004
Washington, DC

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member