

related to a March 10, 2003 incident.¹ Appellant alleged that she was called into the director's office to discuss her branch's performance and the discussion caused an emotional reaction. In a narrative statement, appellant provided additional details regarding the March 10, 2003 incident. According to appellant the director and deputy director discussed her performance and the performance of her staff. She stated that the following topics were discussed at the meeting: the possibility of reassignment, an error by one of appellant's staff members with respect to statistics compiled for a congressional briefing, inappropriate assignments for clerical staff, a recent plan that was not sufficiently comprehensive, overdue correspondence, lack of detail in a recent policy memorandum and a training session that was inadequate. Appellant alleged that she felt like she was being attacked and after the meeting she felt sick to her stomach and became lightheaded.

In a statement dated May 1, 2003, the deputy director generally confirmed appellant's statement as to the topics addressed at the March 10, 2003 meeting. The deputy director indicated that the discussion was very calm and organized and the purpose of the meeting was to address areas in which appellant's performance was not up to expectations.

By decision dated May 16, 2003, the Office denied appellant's claim. The Office determined that appellant had not established a compensable work factor with respect to her claim as there was no evidence of error or abuse by the employing establishment.

On May 27, 2003 appellant requested an oral hearing before an Office hearing representative. At the hearing on January 27, 2004 appellant's representative indicated that appellant had filed a claim with respect to the events of September 11, 2001 (OWCP File No. 11-3000023) and this claim had been accepted for post-traumatic stress disorder (PTSD). The representative asserted that appellant should have filed a recurrence of disability claim but at the time she filed the Form CA-1 in this case she was not functioning properly due to her underlying PTSD. Appellant testified that she had difficulty functioning at work due to her stress condition.

In a decision dated April 13, 2004, the Office hearing representative affirmed the May 16, 2003 Office decision. The hearing representative found that appellant had not identified and established compensable work factors in this case.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by factors of her federal employment.² To establish her claim that she sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition;

¹ The record indicates that appellant had stopped working on September 4, 2002, returned to a part-time light-duty position on January 6, 2003 and was working full time from February 7 to March 18, 2003. She was off work until July 10, 2003, returned to a part-time position and stopped working on November 20, 2003.

² *Pamela R. Rice*, 38 ECAB 838 (1987).

(2) medical evidence establishing that she has an emotional or psychiatric disorder; and
(3) rationalized medical opinion evidence establishing that her emotional condition identified compensable employment factors are causally related.³

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 coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability, is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position or secure a promotion. On the other hand, where disability results from an employee's emotional reaction to her regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.⁴

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁵ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁶

ANALYSIS

In the present case, appellant filed a traumatic injury claim and alleged an emotional condition causally related to a March 10, 2003 meeting with her supervisors regarding her work performance. It is well established that administrative or personnel matters, although generally related to employment, are primarily administrative functions of the employer rather than duties of the employee.⁷ The Board has held that the evaluation of work performance is an administrative function of the employer.⁸ Appellant did not identify her work duties but provided a detailed discussion of the March 10, 2003 meeting, during which her work performance was discussed. An administrative or personnel matter may be a factor of

³ See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

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

⁵ See *Norma L. Blank*, 43 ECAB 389, 390 (1992).

⁶ *Id.*

⁷ *Anne L. Livermore*, 46 ECAB 425 (1995); *Richard J. Dube*, 42 ECAB 916 (1991).

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

employment where the evidence discloses error or abuse by the employing establishment.⁹ In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.¹⁰

In this case, the record does not establish that the employment establishment acted unreasonably. The meeting was held to advise appellant of specific areas in which her performance and the performance of her staff needed improvement. Appellant indicated that she felt like she was being attacked, but there was no allegation or evidence that the supervisors were abusive in language or tone at the meeting. In the absence of any probative evidence of error or abuse, the Board finds that the March 10, 2003 meeting is an administrative matter that is not considered a compensable work factor. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.¹¹

It is noted that at the hearing and on appeal appellant asserts that she filed the wrong claim form and her claim should not be denied on that basis. The record indicates, however, that appellant filed a claim for injury based on the March 10, 2003 meeting. Even if appellant is claiming that an accepted condition from a different claim was aggravated by the incident, a new claim was appropriately filed as a new incident was being alleged.¹²

CONCLUSION

The Board finds that appellant has not established that she sustained an emotional injury causally related to compensable work factors in this case.

⁹ See *Michael Thomas Plante*, 44 ECAB 510 (1993); *Kathleen D. Walker*, 42 ECAB 603 (1991).

¹⁰ *Anna C. Leanza*, 48 ECAB 115 (1996).

¹¹ See *Margaret S. Krzycki*, 43 ECAB 496 (1992).

¹² See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b)(2) (May 1997).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated April 13, 2004 and May 16, 2003 are affirmed.

Issued: November 4, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member