

**United States Department of Labor
Employees' Compensation Appeals Board**

ALICE M. ARMSTRONG, Appellant)	
)	
and)	Docket No. 04-2197
)	Issued: June 7, 2005
U.S. POSTAL SERVICE, POST OFFICE, Meeker, CO, Employer)	
)	
)	

Appearances:
John S. Evangelisti, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On September 9, 2004 appellant filed a timely appeal of merit decision of the Office of Workers' Compensation Programs dated August 17, 2004, in which an Office hearing representative affirmed the denial of her emotional condition claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this emotional condition claim.

ISSUE

The issue is whether appellant has established that she sustained an emotional condition in the performance of duty.

FACTUAL HISTORY

On August 3, 2002 appellant, then a 54-year-old part-time flexible distribution/window clerk, filed an occupational disease claim alleging that she experienced stress-related anxiety and depression caused by a hostile work environment. Appellant stopped work on June 15, 2002.

She first realized that her emotional condition was caused or aggravated by her work on June 27, 2002.

In several statements, appellant described events from October 2000 through July 2002 that she believed contributed to her emotional condition. She stated that Carol Parr, a coworker, stopped speaking to her in October 2000 and would only communicate to her in writing, including the times when she was the acting supervisor. Appellant stated that this made her anxious, cut down on her productivity and made her job more difficult. She noted that Dale Hallebach, the postmaster, advised her that she only needed to talk to Ms. Parr if it was business related.

Appellant described a January 5, 2000 weekly safety meeting during which the parking policy was discussed. She alleged that Mr. Hallebach singled her out and told her not to park in his space again. Appellant advised that the postmaster believed the parking places were assigned according to seniority, but she later provided him with evidence that parking was on a first come, first served basis. On January 10, 2001 she had an official discussion with Mr. Hallebach in which she alleged that she was accused of insubordination, including tampering with mail, misboxing mail, bumping into other employees and being “angry” all the time. During a January 11, 2001 meeting with her union representative and Mr. Hallebach, appellant alleged that Mr. Hallebach refused to provide or disclose the “depositions” concerning her and stated that everything should be forgotten and to move on. Appellant noted that Mr. Hallebach had previously agreed to process leave slips in a timely manner, but her December 22, 2000 leave request was not processed in a timely manner. She stated that Mr. Hallebach denied any knowledge of her request when she inquired about it on January 16, 2001 and that the next day, January 17, 2001, she found a leave slip dated December 23, 2000 with a denial on it. Appellant stated that, on January 26, 2001, she received another official discussion based on unfounded charges and alleged that Mr. Hallebach asked her about her sexual orientation. She also stated that Mr. Hallebach refused to discuss any of the documents he said he had. Appellant stated that she received a religious pamphlet at work, which was pushed through the vent in her locked locker. She described a February 8, 2001 incident where Ms. Parr advised Mr. Hallebach that appellant had misboxed the mail. Appellant asserted that Mr. Hallebach treated her like a child and told her to “grow up” when she contacted him to complain about “backstabbing” by her coworkers. She stated that she felt her work was being wrongfully disparaged, which caused her even more stress when Mr. Hallebach refused to resolve or deal with the situation. On March 16, 2001 Mr. Hallebach ordered her to ask him personally if she could go on break, which she alleged was humiliating. She alleged that she was required to sign a policy memorandum regarding break policies, which she contended was excessive on Mr. Hallebach’s part, and that she was never counseled about abusing her break privileges.

Appellant described an April 28, 2001 incident concerning empty bags from the Glenwood Distribution Center and advised that she received a note from Ms. Parr, signed by Mr. Hallebach, accusing her of not properly performing her duties. She stated that, after she received the note, it was difficult for her to concentrate on her duties. Appellant described a March 22, 2001 incident concerning a drawer shortage. She stated that she and Barbara Persinger, a coworker, had audited the amount of stamps and cash in her cash drawer, which had indicated a drawer shortage. Mr. Hallebach initially stated that they should split the difference but, after a second audit was performed, said that he was going to change the figures, which

Ms. Persinger had signed, to reconcile the audit. Appellant stated that she refused to go along with this and, when she refused to hand over the copy of the audit sheet he had just altered, Mr. Hallebach ripped the sheet out of her hand. She stated that she called the police and made a complaint of assault. Appellant further stated that a grievance was filed over the alleged shortages and she was exonerated on August 7, 2001. She noted that, in September and October 2001, she protested the scheduling of her work assignments, which she alleged were assigned according to seniority. Appellant alleged that Mr. Hallebach changed the manner in which the shifts and duties were assigned so that seniority was not a factor. She noted that, during June and October 2001, she was scheduled to work the early shift for five weeks while, clerk Gaelynn Barrow, who had less seniority, was only assigned that shift for one week.

Appellant stated that she had a dispute with a coworker on October 6, 2001 regarding the volume of a radio and that this problem had been ongoing since late 2000. She stated that she had claustrophobia and that the volume of the radio gave her a headache, which made it difficult to concentrate on her duties and resulted in slowed production. Appellant noted that Mr. Hallebach had taped the volume knob on the radio, but two or three days later, someone took the tape off the radio and the problem resumed. She stated that, when she decided to leave work after the radio incident, she gave Ms. Persinger, who was acting supervisor, a leave form requesting "no time, just leaving," but her pay stub indicated four hours of sick time. Appellant stated that, in October 2001, some of her coworkers had contacted the police about her. She stated that the police determined that no criminal violation had occurred and that she was never disciplined or counseled for such actions. Appellant described a January 7, 2002 situation over work assignments. She stated that Mr. Hallebach initially assigned her to work on letters while Ms. Barrow would work on flats but, when Ms. Barrow refused to work on flats, she was then assigned to work the flats. Appellant stated that she was hurt and felt helpless while she performed her duties and felt that Ms. Barrow, who had less seniority, should have been casing flats. She also described an incident concerning Ms. Barrow where she was wearing too much perfume, which caused her nausea and headaches. Appellant indicated that she told Mr. Hallebach about this in November 2000, but it was not resolved for a year.

Appellant stated that she sent several letters in October 2001, January 14 and April 3, 2002 to Mr. Hallebach, the Post Office Operations Manager and the Postal Liaison in her congressman's office advising of a hostile work environment, but nothing was done in response. On January 24, 2002 all the employees were required to attend a group meeting with a counselor from the Employee Assistance Program, but since she was at lunch, she had to see the counselor alone. On February 9, 2002 Ms. Parr, who was acting supervisor, began to "micro-manage" her and order her around excessively by having her do several different duties in two hours. Appellant worked until the stress overcame her. Appellant alleged that Mr. Hallebach refused to approve her leave request.

She alleged incidents occurring on February 15, March 23 and April 13, 2002 where Mr. Hallebach did nothing to resolve the situation after she told him about it. On February 15, 2002 Ms. Barrow called her a "liar" in front of Mr. Hallebach with regard to how she counted mail. On March 23, 2002 appellant stated that she was present during a conversation between Ms. Barrow and Denton Kitchens, a janitor, where Ms. Barrow said that morning people were not doing their jobs. Appellant noted that she was a "morning person." On April 13, 2002 appellant stated that she was approximately two feet away from Ms. Barrow and Jim Dole, a

coworker, while they had a conversation about models and “being fat.” She indicated that their conversation was embarrassing, offensive and insulting. Appellant indicated that she received a letter of warning on April 16, 2002 and, on April 22, 2002, she was given an official discussion by Mr. Hallebach in front of Ms. Persinger, acting supervisor, and Ms. Barrow. She alleged that this should have been done in private with a union representative present.

Appellant noted that, on April 20, 2001, Mr. Hallebach gave a talk about not carrying knives at work, but stated that he would continue to carry and use his knife. She requested and was approved for 80 hours of leave from June 15 to 29, 2002, but was only paid for 60 hours. Appellant filed a grievance, which was settled on August 20, 2002, to get the remainder of her leave paid. She also stated that she and her son initially had post office boxes at her location but they had to move their boxes to a different branch as her son’s mail was misboxed and sometimes not delivered when she was not at work. Appellant alleged that it was unclear whether anyone was in charge from the beginning of the tour until approximately 8:30 to 8:45. She alleged that Ms. Parr chose coworker friends and used them for her own agenda and alleged that Mr. Hallebach overturned the acting supervisor’s decisions, never took a firm stand on any issues, was often swayed by a crisis situation and was inconsistent in handling such matters, including agreements made with union stewards, Equal Employment Opportunity Commission and the employees. Appellant alleged that all of the above incidents created a hostile work environment and that this was brought to the attention of Mr. Hallebach and the postal operations manager and the police department on October 22, 2001 and January 16, March 4, April 3 and May 1, 2002.

In a report dated August 21, 2002, Dr. Joe Gottfried, a Board-certified psychiatrist, opined that appellant’s symptoms of depression and anxiety were triggered by long-term unresolved conflicts on the job and her symptoms had escalated as those unresolved conflicts contributed to her inability to return to work, even after a vacation in June 2002.

On September 10, 2002 the Office informed appellant that the evidence submitted was insufficient to establish her claim. The Office advised appellant of the additional factual and medical evidence needed to support her claim.

On September 19, 2002 appellant reiterated her previous allegations. In letters dated February 12 and March 10, 2003, the employing establishment disputed appellant’s allegations of a hostile work environment and submitted supporting evidence, including a statement from Mr. Hallebach, explaining various incidents.

On April 30, 2003 the Office prepared a statement of accepted facts in which it found that the October 22, 2001 incident in which the police were called to investigate allegations made by appellant’s coworkers against her had occurred in the performance of duty.

The Office referred appellant to Dr. Randal D. France, a Board-certified psychiatrist, for a second opinion evaluation. In a July 10, 2003 report, Dr. France diagnosed major depression which he opined was directly caused by the series of interactions as described in the statement of accepted facts that led to a stressful environment without any significant resolution. He thus opined that the accumulation of what happened over time, as opposed to a specific event, along with no description of any sort of resolution for those stressful events in the work setting caused

appellant's depression and disabled her from work in July 2002. In a memorandum dated August 14, 2003, the Office modified its statement of accepted facts to reflect that the October 22, 2001 incident was not compensable as it related to an administrative matter.

By decision dated August 18, 2003, the Office denied appellant's claim finding that she did not establish that her emotional condition occurred in the performance of duty.

On September 12, 2003 appellant requested a hearing, which was held on April 27, 2004 and during which appellant testified. Her attorney noted that all disputes between appellant and her coworkers occurred at work and argued that the incidents should be viewed for their total effect on appellant. Evidence submitted included an April 21, 2004 affidavit from appellant, reiterating her allegations and an April 26, 2004 statement from Lloyd Rollins, union steward, in which he noted his position on several situations pertaining to appellant and opined that Mr. Hallebach's failure to properly investigate events and remedy situations contributed to an adverse working environment. In a March 26, 2004 statement, Carol Russel, a coworker, indicated that she was at a meeting where she heard Mr. Hallebach say, "[Appellant], I don't want you parking in my parking space." In an April 17, 2004 statement, a contractor, whose name is not entirely legible, indicated that during a safety talk Mr. Hallebach told appellant in front of everyone not to park in his parking space again. Other evidence included a November 18, 2003 medical report, copies of three audits and a letter explaining the original audit, a copy of the police report from the incident over the audit report, copies of grievance settlements, a copy of a leave request which was not approved and vague or incomplete witness and coworker statements.

The employing establishment responded and submitted documentation denying or refuting appellant's allegations. The employing establishment noted that Ms. Parr denied appellant's allegation of not speaking to her and Mr. Hallebach denied telling appellant not to park in his parking space in front of other employees, but had done so privately. The parking lot issues and the police report concerning the parking lot incident were discussed. The employing establishment again responded to appellant's other allegations alleging that they were administrative issues for which she had not substantiated error or abuse. The employing establishment stated that an investigation was conducted into the matter concerning the religious pamphlet placed in appellant's locker, but no employees knew anything about it. The employing establishment asserted that Mr. Hallebach stated that appellant had called Ms. Barrow a liar and the situation was not as appellant described. The employing establishment also commented regarding the witness statements appellant submitted.

In an August 17, 2004 decision, the hearing representative found that appellant did not establish any compensable factors of employment and affirmed the denial of her claim.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that the injury was sustained in

the performance of duty as alleged and that any disability and specific condition for which compensation is claimed is causally related to the employment injury.¹

To establish appellant's occupational disease claim that she sustained an emotional condition in the performance of duty, she must submit the following: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.²

Workers' compensation law is not applicable to each and every injury or illness that is somehow related to a claimant's employment with the federal government. When an employee experiences emotional stress in carrying out her employment duties or has fear and anxiety regarding her ability to carry out her duties, and the medical evidence establishes that the disability resulted from her emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. The same result is reached when the emotional disability resulted from the employee's emotional reaction to a special assignment or requirement imposed by the employment or by the nature of the work.³ The disability is not covered when it results from such factors as an employee's frustration from not being permitted to work in a particular environment or to hold a particular position. Disability resulting from an employee's feelings of job insecurity or the desire for a different position, promotion, or job transfer does not constitute personal injury sustained in the performance of duty within the meaning of the Act.⁴

Generally, actions of the employing establishment in administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties, do not fall within coverage of the Act.⁵ However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of personnel matters, coverage may be afforded.⁶ In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.⁷

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are

¹ *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

³ *Trudy A. Scott*, 52 ECAB 309 (2001); *see Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Id.*; *see also Anthony A. Zarcone*, 44 ECAB 751 (1993).

⁵ *See Matilda R. Wyatt*, 52 ECAB 421 (2001); *Michael L. Malone*, 46 ECAB 957 (1995).

⁶ *Elizabeth Pinero*, 46 ECAB 123 (1994); *Michael Thomas Plante*, 44 ECAB 510 (1993).

⁷ *Ruth S. Johnson*, 46 ECAB 237 (1994).

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.⁸ 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.⁹

ANALYSIS

Appellant alleged that she sustained an emotional condition as a result of a number of employment incidents and conditions. She has not alleged that she developed an emotional condition due to the performance of her regular or specially assigned duties or out of a specific requirement imposed by her employment, but rather attributed her conditions to arising in the work environment. The Office denied her emotional condition claim on the grounds that she did not establish any compensable employment factors. The Board must, therefore, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of the Act.¹⁰

Appellant has alleged and submitted witness statements which corroborated her allegation that Mr. Hallebach told her not to park in his space during a safety meeting. She stated that his comment made her feel singled out as she had not taken an “assigned” parking space since the current contract called for parking on a first come, first serve basis. Appellant also discussed an October 22, 2001 alleged parking lot incident which resulted in the police being called. These allegations, however, do not relate to her regular or specifically assigned work duties.¹¹ Although they bear some connection to work, these allegations generally fall under an administrative function of the employing establishment which are usually not compensable absent any showing of error or abuse.¹² Appellant has not presented sufficient evidence of error or abuse with regard to these incidents. At best, there may have been a misunderstanding regarding whether spaces were reserved but this does not amount to error or abuse sufficient to establish a compensable employment factor.

⁸ See *Charles D. Edwards*, 55 ECAB ____ (Docket No. 02-1956, issued January 15, 2004); *Norma L. Blank*, 43 ECAB 384 (1993).

⁹ *Lori A. Facey*, 55 ECAB ____ (Docket No. 03-2015, issued January 6, 2004); *Norma L. Blank*, *supra* note 8.

¹⁰ Although appellant alleged other administrative actions, the Board finds that there is no evidence in the record to support that they actually occurred or occurred in the manner alleged. These include appellant’s allegations that: Mr. Hallebach had back dated the December 22, 2000 leave request; that another “official discussion” took place on January 26, 2001; that any of the offensive conversations appellant stated she overheard between her coworkers had taken place or were directed at her; that she was given an “official discussion” on April 23, 2002 in front of other employees; or that she had to change her and her son’s postal box due to “miss-boxing.”

¹¹ See *Donna Faye Cardwell*, *supra* note 2.

¹² See *Trudy A. Scott*, *supra* note 3.

Appellant stated her disagreement with Mr. Hallebach's April 20 and 28, 2001 meetings regarding the carrying of knives in the workplace and the handling of empty equipment. She also criticized the manner in which Mr. Hallebach and Ms. Parr performed their job. Holding an official meeting and discussing office policies and procedures is an administrative function of the employing establishment and is generally not compensable.¹³ Appellant has not submitted evidence to establish that the office policies were in error or abusive. Moreover, the Board has held that an employee's dissatisfaction with perceived poor management constitutes frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable under the Act.¹⁴ The Board notes that appellant's reaction to such conditions and incidents at work must be considered self-generated in that it resulted from her frustration in not being permitted to work in a particular environment or to hold a particular position.¹⁵

Appellant asserted that the police were called on October 22, 2001 to the employing establishment by coworkers to investigate allegations of harassment by her. Appellant denied the allegations. The police investigation revealed that there was no criminal violation and concluded that it was a management problem. To the extent that appellant is alleging coworker harassment in contributing to the alleged hostile work environment, the Board has held that incidents which are alleged as constituting harassment by supervisors and coworkers which are established as occurring and arising from appellant's performance of her regular duties could constitute employment factors.¹⁶ However, for harassment to give rise to a compensable disability under the Act, there must be evidence that the alleged harassment did, in fact, occur. Mere perceptions of harassment are not compensable under the Act.¹⁷ Appellant denied the allegations made by her coworkers and the police report never made any findings on the merits of the complaints. This evidence does not establish coworker harassment. Rather, it shows that appellant did not get along with her coworkers and may have contributed to some of the hostilities in the workplace. As appellant has submitted no other evidence to establish coworker harassment, she has not established a compensable work factor in this respect.

To the extent that appellant alleged harassment with respect to the other incidents she alleged, there is insufficient evidence to either establish that the incidents occurred or that they represented anything other than appellant's perceptions. Appellant has failed to present sufficient evidence that she was harassed by her supervisors or coworkers. The employing establishment denied each allegation or provided a reasonable explanation for the supervisory actions taken. Appellant has not provided sufficient evidence, such as witness statements, to establish that the alleged harassment actually occurred.¹⁸ Although Mr. Rollins, the union steward, opined that Mr. Hallebach's lack of management action contributed to an adverse

¹³ See *Joe E. Hendricks*, 43 ECAB 850 (1992).

¹⁴ See *Michael Thomas Plante*, *supra* note 6.

¹⁵ *Tanya A. Gaines*, 44 ECAB 923, 934-35 (1993).

¹⁶ *David W. Shirey*, 42 ECAB 783 (1991); *Kathleen D. Walker*, 42 ECAB 603 (1991).

¹⁷ *Jack Hopkins, Jr.*, 42 ECAB 818 (1991).

¹⁸ See *William P. George*, 43 ECAB 1159, 1167 (1992).

working environment, this is Mr. Rollins' opinion of the work environment and does not establish any specific event or incident alleged by appellant. Allegations alone are insufficient to establish a factual basis for an emotional condition claim.¹⁹ There is no evidence, such as grievance decisions, to support harassment at the employing establishment. The Board, therefore, finds that appellant has failed to establish a compensable employment factor under the Act with respect to the claimed harassment.

Appellant has alleged that, on March 22, 2001, Mr. Hallebach became violent when she refused to reconcile a document pertaining to a cash drawer shortage. The evidence reflects that appellant and Mr. Hallebach disputed the manner in which a cash drawer shortage should be reconciled and she refused to return the audit sheet, following which it was taken from appellant's hand. There is no evidence, however, to support appellant's allegation that Mr. Hallebach became violent during this exchange other than taking the audit sheet from appellant's hand. Verbal or physical altercations that occur because of work matters are covered as arising out of employment.²⁰ The Board finds that the March 22, 2001 altercation between appellant and Mr. Hallebach occurred in the performance of duty, as appellant was reasonably fulfilling her duties at the time and the altercation occurred because of a dispute over a work matter, the manner in which the shortage should be reconciled.

Appellant alleged that Ms. Parr stopped speaking to her in October 2000 and that Mr. Hallebach did not take any action and treated her like a child by telling her to "grow-up," when she spoke to him over a February 8, 2001 incident involving misboxed mail and about "backstabbing" by her coworkers. Appellant also asserted that a coworker called her a "liar." To the extent that appellant is alleging that she was subject to verbal abuse, the Board has held that verbal abuse or threats of physical violence in the workplace are compensable under certain circumstances.²¹ This, however, does not imply that every ostensibly abusive or threatening statement uttered in the workplace will give rise to coverage under the Act.²² Verbal altercations, when sufficiently detailed by the claimant and supported by the record, may constitute a compensable factor of employment.²³ While the evidence of record substantiates that Mr. Hallebach told appellant to "grow-up" and to try and get along with people, appellant has not provided a sufficiently detailed account of the alleged incident to establish verbal abuse. Moreover, Mr. Hallebach asserted that it was appellant who called the coworker a "liar." As the record does not substantiate appellant's allegation of verbal abuse, she has failed to substantiate a compensable work factor in this regard.

¹⁹ See *Arthur F. Hougens*, 42 ECAB 455 (1991); *Ruthie M. Evans*, 41 ECAB 416 (1990) (in each case the Board looked beyond the claimant's allegations of unfair treatment to determine if the evidence corroborated such allegations).

²⁰ *Allen B. Moses*, 42 ECAB 575 (1991).

²¹ *Fred Faber*, 52 ECAB 107, 109 (2000).

²² *Id.*

²³ *Marguerite J. Toland*, 52 ECAB 294, 298 (2001).

Appellant made numerous other allegations which relate to administrative or personnel matters and not to her regular or specially assigned work duties. Approving or denying a leave request is an administrative function of a supervisor²⁴ as are matters involving the use of leave and any rules or procedures related thereto.²⁵ In this case, appellant has submitted no evidence to establish any error or abuse in the employing establishment's handling of her December 22, 2000 leave request or Mr. Hallebach's refusal of her leave requests on other occasions. She has also submitted insufficient evidence to establish any error or abuse with respect to the processing of her paid leave for the period June 15 to 29, 2002 and the fact that she was charged four hours of sick leave on October 6, 2001 when she requested "no time, just leaving." Accordingly, she has not established a compensable factor in this respect.

Appellant has alleged that she was unjustly given official discussions and issued disciplinary actions.²⁶ The record reflects that appellant was issued an April 16, 2002 letter of warning for an improper gesture made toward another employee. However, there is no evidence to support that the official discussions of January 26, 2001 or April 23, 2002 occurred in an abusive or erroneous manner. As appellant has not submitted evidence to support that the employing establishment either erred or acted abusively with regard to the above-noted disciplinary action, appellant has not established a compensable factor of employment in this respect.

The assignment of work is an administrative function and the manner in which a supervisor exercises his or her discretion falls outside the ambit of the Act.²⁷ Appellant has alleged that her seniority was not given any preference in various work assignments, that she protested the scheduling of work in September and October 2001, that another employee received more consideration in January 2002 and, on February 9, 2002 Acting Supervisor Parr "micro-managed" her. The employing establishment denied appellant's allegations. Appellant has submitted no witness statements or other evidence to document that her supervisors erred or acted abusively in the assignment of work. Thus, she has not established a compensable work factor in this regard.

Appellant has also alleged that a religious pamphlet was placed in her locker. There is no evidence indicating that the employing establishment had any role with regard to this. Instead, the employing establishment conducted an investigation, but found that none of the employees knew anything about the pamphlet. The employing establishment's investigation into this matter constitutes an administrative or personnel action.²⁸ However, no evidence of administrative error or abuse in conducting this action was provided and, thus, appellant has not established a compensable work factor.

²⁴ *Beverly R. Jones*, 55 ECAB ____ (Docket No. 03-1210, issued March 26, 2004).

²⁵ *See Elizabeth Pinero*, *supra* note.

²⁶ *See Charles D. Edwards*, 55 ECAB ____ (Docket No. 02-1956, issued January 15, 2004) (the handling of disciplinary actions and the monitoring of activities at work are administrative functions of the employer and not duties of the employee).

²⁷ *See Barbara J. Latham*, 53 ECAB 316 (2002).

²⁸ *See Ernest St. Pierre*, 51 ECAB 623 (2000).

Appellant stated that she was required to sign a “work policy paper” along with other employees, but that she was the only one required to sign the break policy. She also asserted that she had to attend an Employees’ Assistance Program meeting alone because she was at lunch during a group meeting everyone was required to attend. The evidence reflects that these policies are part of the administration of distributing information to employees. The execution and administration of such office policies is an administrative function.²⁹ The evidence reflects that a customer had complained about appellant being on a break and, following an investigation into the matter, she was asked to sign the break policy. She has submitted no evidence to support that the employing establishment’s investigation was improper or that having to personally report to Mr. Hallebach was unreasonable or abusive. Appellant has failed to establish a compensable factor of employment as to these matters.

Appellant asserted that she was involved in a dispute with a coworker regarding the volume of a radio on October 6, 2001. She also asserted that on January 12, 2002, a coworker was wearing too much perfume. Mr. Hallebach stated that he responded to these situations and described how he managed those situations. An employee’s complaints concerning the manner in which a supervisor performs his or her duties as a supervisor or the manner in which a supervisor exercises supervisory discretion fall, as a rule, outside the coverage of the Act. This principle recognizes that a supervisor or manager in general must be allowed to perform his or her duties, that employees will at times dislike actions taken, but that mere disagreement or dislike of supervisory or management action will not be actionable, absent evidence of error or abuse.³⁰ Appellant has submitted no evidence of error or abuse with respect to Mr. Hallebach’s handling of these matters and, thus, has not established a compensable work factor with regard to administrative actions taken by the supervisor. However, to the extent that appellant is alleging that her exposure to noise or perfume at work while performing her duties made her ill, these could be compensable factors.³¹ However, there is insufficient evidence to corroborate the presence of perfume or loudness of the radio.

As appellant has established a compensable factor of employment -- the altercation with Mr. Hallebach over reconciliation of the drawer shortage. The issue is whether this factor caused or contributed to appellant’s emotional condition. The case will be remanded to the Office for appropriate development of the medical evidence to be followed by a decision on appellant’s emotional condition claim.

CONCLUSION

Appellant has established a compensable factor of employment. The case will be remanded for further development of the medical evidence.

²⁹ See *Lillian Cutler*, *supra* note 3.

³⁰ *Marguerite J. Toland*, *supra* note 23.

³¹ See *Kathleen D. Walker*, *supra* note 16.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 17, 2004 is modified to reflect that appellant established a compensable factor of employment and is set aside for further action in conformance with this decision.

Issued: June 7, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member