



confrontation with Pedro Rivera, a supervisor. Appellant asserted that Mr. Rivera was “error and abusive, stressful nonprofessional conduct in front of workers and PAX [passengers] plus without giving [appellant] an opportunity to explain that he [Mr. Rivera] was wrong as he was the chief” officer. In the witness portion of the form, K. Plank, a supervisor, stated that on August 17, 2005 at approximately 4:50 p.m., appellant and Mr. Rivera “had a heated discussion pertaining to [appellant] reporting to a hard secondary and [appellant] then stated that he felt sick and wanted a break.” Appellant requested and received emergency medical care from a paramedic unit. He stopped work on August 17, 2005.

In a letter dated September 2, 2005, the Office advised appellant of the additional medical and factual evidence needed to establish his claim. The Office directed appellant to submit a statement describing “the immediate effects of the injury and what [he] did immediately thereafter,” provide relevant witness statements and a detailed history of medical treatment. The Office also requested that he submit a detailed narrative report from his physician identifying the implicated work factors and explaining how and why those incidents caused or aggravated the claimed injury. The Office emphasized that such medical report was crucial to his claim. The Office afforded appellant 30 days in which to submit the evidence. Appellant did not submit additional evidence.

By decision dated October 4, 2005, the Office denied appellant’s claim on the grounds that fact of injury was not established. The Office found that appellant failed to establish that the identified employment events occurred as alleged or that those factors caused any medical condition.<sup>1</sup>

### **LEGAL PRECEDENT**

The Federal Employees’ Compensation Act provides for payment of compensation for personal injuries sustained while in the performance of duty.<sup>2</sup> Where disability results from an employee’s reaction to his regular or specially-assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Act.<sup>3</sup> To establish entitlement to benefits, a claimant must establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.<sup>4</sup> This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.<sup>5</sup>

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<sup>1</sup> Following issuance of the Office’s October 4, 2005 decision, appellant submitted additional factual and medical evidence. The Board may not consider such evidence for the first time on appeal as it was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c). Appellant may submit such evidence to the Office accompanying a request for reconsideration.

<sup>2</sup> 5 U.S.C. § 8102(a).

<sup>3</sup> 5 U.S.C. §§ 8101-8193. *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>4</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

<sup>5</sup> *Effie O. Morris*, 44 ECAB 470 (1993).

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing 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.<sup>6</sup> If a claimant implicates 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.<sup>7</sup>

### ANALYSIS

Appellant alleged that he sustained stress and consequential hypertension due to a verbal altercation with Mr. Rivera, a supervisor, on August 17, 2005. In support of his claim, appellant submitted a witness statement from K. Plank, a supervisor, indicating that appellant had a “heated discussion” with Mr. Rivera on August 17, 2005. However, this witness did not recall what was said or substantiate that Mr. Rivera behaved in an unprofessional or abusive manner. The Board finds that appellant submitted insufficient evidence to establish the alleged altercation with Mr. Rivera as a compensable employment factor.

In the September 2, 2005 letter, the Office explained the type of medical and factual evidence needed to establish his claim. The Office emphasized the necessity of submitting rationalized medical evidence supporting a causal relationship between the identified work factors and the claimed injury. Appellant, however, did not submit any additional factual or medical evidence prior to the issuance of the October 4, 2005 decision. Therefore, he did not substantiate that he sustained any injury or condition resulting from the August 17, 2005 interaction with his supervisor.<sup>8</sup> Thus, he has not established his claim for emotional stress and consequential hypertension.

### CONCLUSION

The Board finds that appellant has not established that he sustained an emotional condition with consequential hypertension as alleged.

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<sup>6</sup> See *Norma L. Blank*, 43 ECAB 384 (1992).

<sup>7</sup> *Marlon Vera*, 54 ECAB 834 (2003).

<sup>8</sup> *Ruthie M. Evans*, *supra* note 4.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 4, 2005 is affirmed.

Issued: May 10, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board