United States Department of Labor
Employees' Compensation Appeals Board

A.N., Appellant	)	
and	)	**Docket No. 06-1693**
	)	**Issued: October 30, 2006**
DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Seattle, WA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 3, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated June 2, 2006 denying 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 case.

ISSUE

The issue is whether appellant sustained an emotional injury in the performance of duty.

FACTUAL HISTORY

On February 9, 2006 appellant, a 27-year-old claims representative, filed an occupational disease claim alleging that her emotional condition was a result of her federal employment. She claimed that she experienced depression, emotional stress, adjustment disorder, mixed anxiety and panic disorder without agoraphobia as a result of harassment and intimidation at the employing establishment. Appellant claimed that, after she returned to work on June 15, 2005

from her grandfather's funeral in Vietnam, she was pressured to resign. She alleged that the hostile work environment, combined with continuing intimidation and demeaning treatment by management, "instigated" her condition.

In an undated narrative, appellant alleged that management conducted a campaign against her in an effort to force her to resign. From June to September 2005 management threatened, bullied and degraded her in front of her peers and clients. There were intrusive audits of all phases of her work and her time was spent defending and explaining the decisions she made. Stress was constant for eight hours a day, five days a week and appellant's break time was monitored. On September 28, 2005 her symptoms became so acute that she could no longer function and had to leave work to see a doctor. On October 19, 2005, after being subjected to a "Weingarten meeting" where she was severely criticized for her handling of telephone calls, appellant had another emotional breakdown. On November 8, 2005 she was allegedly given an oral warning as to her conduct, which caused further stress and feelings of anxiety.

Appellant submitted a note dated February 3, 2006 from her therapist, Wendy K. Hardy, reflecting that appellant completed an intake appointment on January 20, 2006 at Greater Lakes Mental Healthcare. Ms. Hardy indicated that appellant reported "difficulty with depression and anxiety secondary to work conflicts." She provided a working diagnosis of adjustment disorder with mixed anxiety and depression and panic disorder without agoraphobia. In a February 2, 2006 certificate of illness, Dr. Jonathan Y. Jin, a Board-certified internist, noted appellant's feelings of emotional stress and depression related to her work and her desire to transfer to another department due to the behavior of her current supervisor and coworkers. Appellant submitted a position description for a claims representative.

On February 27, 2006 the Office asked the employing establishment to respond to appellant's allegations. By letter dated February 27, 2006, the Office informed appellant that the information submitted was insufficient to establish her claim. The Office advised her to submit a description of employment-related conditions or incidents that she believed contributed to her illness; specific aspects of her employment that she considered detrimental to her health; a description of all practices or incidents affecting her condition; copies of any Equal Employment Opportunity (EEO) complaint; and a medical report describing symptoms, treatment and an explanation as to how the alleged work incidents or exposure contributed to her condition.

In response to the Office's February 27, 2006 letter, Debbie Mantzke, acting district manager at the employing establishment, controverted the claim and disagreed with appellant's allegations. On May 18, 2005 appellant's supervisor discussed four complaints from the public about appellant and comprehensive review of appellant's work was initiated due to concerns raised by the complaints, including interview and desk audits. During the course of the audits, appellant left for Vietnam due to her grandfather's illness. When she returned to work on June 15, 2005, she was only able to work a half of a day. Ms. Mantzke stated that when she met with appellant on June 21, 2005 to discuss the results of the audits, she expressed management's concern about complaints from the public about her performance. Appellant expressed shock that management was not pleased with her performance and left work shortly after the meeting. According to Ms. Mantzke, management continued to conduct three or four interview audits per week, as well as end-of-the-line case reviews, in order to identify the cause of appellant's performance issues. Appellant was provided feedback in an appropriate manner and not in a

"threatening, bullying or degrading" manner as alleged. Ms. Mantzke indicated that appellant was not accepting of feedback provided by her supervisor, but became defensive and argumentative, often initiating conversations at her supervisor's desk which could be heard by her coworkers. Following a September 28, 2005 presentation on workplace safety and stress, appellant took sick leave and filed an EEO complaint. Ms. Mantzke stated that appellant was subjected to the same requirements as all other employees. She reported that management had assigned three very qualified mentors to assist appellant with her workload and refresher training in all topics identified by management as being problem areas. Appellant was also provided several hours of training on dealing with the public, in an attempt to help her improve her customer service skills. After another series of complaints during the first week of September 2005, discussions were held with appellant and an oral warning was issued regarding her treatment of the public.

The record contains a transcript of an October 19, 2005 Weingarten interview. Vicky Klein, appellant's supervisor, indicated that the interview was a fact finding interview related to four public service complaints she had received within the previous month.

The record contains a September 1, 2005 EEO settlement agreement reflecting a settlement of all issues without prejudice to either party. The record also contains a January 10, 2006 EEO counseling report from Tari Kindred regarding appellant's claim of retaliation/reprisal.

Appellant submitted an undated narrative describing statements allegedly made by Supervisor Gail Lupien during meetings with her on June 27 and July 1, 2005. She alleged that Ms. Lupien made the following statements:

1. Appellant had poor interviewing skills and was not a good customer service representative;

2. Appellant's return from a stressful trip was irrelevant in evaluating her interviewing skills;

3. Appellant was not familiar enough with the employing establishment's program because she had to ask for assistance during interviews;

4. Appellant read the questions off of interview screens;

5. Appellant did not relate to her clients (but offered no supporting evidence);

6. Appellant did not like her job;

7. In a condescending way, she would "say some big words" to appellant which she did not think she would understand, but that she would say them anyway;

8. Appellant was very subordinate to Randy Hildebrand;

9. Appellant does not make her own decisions, but waits for others to tell her what to do;

10. In a condescending way, the employing establishment does not pay her to be like a secretary and type letters;

11. In a condescending way, "Do you understand what I am saying to you?"

12. "I think you should leave, that way your employment record will be clean";

13. "If you stay, I will definitely put you on a PEP," and "If you go through with the PEP, then it will stay on your record forever and if other employers call, I will have to tell them about your PEP";

14. She had to decide by June 30, 3005 whether or not to resign;

15. "Frankly, I do n[o]t think you can improve and a year from now we will be here discussing the same thing"; and

16. Appellant was not a good match for the job.

Appellant submitted an undated supplement to the Weingarten interview notes provided by management. When asked if she was prepared for the interview, appellant stated, "No, I am not prepared for this. This is totally surprising to me and I had no time to prepare for it." Appellant stated that her union representative advised her to participate in the interview, in that she could submit additional information at a later time. She commented on her participation in several telephone interviews that were the subject of the Weingarten interview.

The record contains four records of complaints signed by Ms. Lupien. A May 5, 2005 complaint alleged appellant's mishandling of a case. A second May 5, 2005 complaint alleged that appellant failed to return calls and mishandled a case. A third on that date cited appellant's failure to return calls and lack of clarity in correspondence. A May 17, 2005 complaint reflects that appellant "soundly scolded" a client, gave "pat" answers, was unable to properly analyze the client's situation, and stated that the client was "wasting her time."

In a May 18, 2005 conversation summary, Ms. Lupien indicated that she had discussed the complaints received from May 5 to 17, 2005 with appellant. She counseled appellant to be more careful in choosing her words when explaining information to clients and reminded her that calls needed to be returned promptly. Ms. Lupien told appellant that she had delayed discussing the May 5, 2005 complaints with her, because she wanted to "give her the benefit of the doubt." Ms. Lupien provided examples through role playing as to how appellant might respond in specific situations, and told her that the most important point was to individualize information to fit a claimant's needs.

In a record of a September 20, 2005 telephone observation, Ms. Klein stated that she had listened to appellant's responses to callers in many instances. She indicated that, at the beginning of a call, appellant was polite and courteous, but that, if the caller questioned anything regarding her decisions or wanted an explanation, appellant became stern. Ms. Klein had discussions with appellant about the way she "talks down" to callers, and explained that she needed to be more sensitive to their needs, use information available in the records, and be explicit when explaining policies and procedures.

The record contains three records of complaints from September 5 through 9, 2005. On September 5, 2005 a client complained that appellant did not give her clear answers and appeared confused. The client requested a new case worker. On September 7, 2005 a client complained that appellant had a "snooty attitude" and accused her of lying about not having a cellular telephone. Appellant allegedly told the client's caregiver that she planned to contact her employer about the client's ability to manage her money. On September 8, 2005 a client complained that appellant did not understand the issue in his case, and stated that his issue "was not a biggie."

On October 25, 2005 appellant asked the associate EEO Commissioner to reinstate her original complaint, on the grounds that the employing establishment violated the terms of the settlement agreement by waiting four to six weeks to inform her that she was not properly conducting telephone interviews. On January 16, 2006 her request was denied, on the grounds that the employing establishment had complied with the terms of the settlement agreement.

Appellant submitted a therapy service treatment plan dated January 2, 2006, signed by Ms. Hardy and countersigned by Pamela Sarlund-Heinrich, MA. The plan reflected appellant's report of "dysphoria secondary to conflicts at work which began in June of 2005" and her belief that her workforce was discriminating against her. They noted that appellant's complaints were consistent with a diagnosis of adjustment disorder with mixed anxiety and depressed mood and panic disorder without agoraphobia.

The record contains a February 2, 2006 decision from Ms. Mantzke on appellant's Step 2 grievance alleging ongoing disparate treatment and requesting a transfer. The relief requested was denied on the grounds that no disparate treatment was found.

Appellant submitted a document dated November 8, 2005 entitled "oral warning." She alleged that Ms. Klein informed her that she had concluded that the complaints addressed in the Weingarten interview were valid and was issuing an oral warning. Ms. Klein noted that appellant had received a total of eight complaints in a five-month period. Appellant was advised that the employing establishment would work with her to improve her conduct and would monitor her calls and interrupt her when necessary. Appellant alleged that Ms. Klein became annoyed because she was taking notes during the meeting and asked, "Why are you not listening? You think this is a game? You know I can write you up for that kind of attitude."

In an undated document entitled "Discriminatory Treatment," appellant repeated statements allegedly made by Ms. Lupien on June 27 and July 1, 2005. She indicated that district manager Bill Maurmann concurred with Ms. Lupien's statement, but offered no evidence of her deficiencies. She alleged harassment, stating that "Gail and Debbie continue to degrade me by consistently questioning what I am doing." She alleged that her access to technical advisors was limited to Gail, Debbie and a "T16TE." Appellant stated that, when asked a question, Gail responded rudely by telling her that she should already know the answer. She alleged that her productivity was hindered by constant interruptions from management questioning her about her activities. Appellant felt there was a systematic effort on management's part to have her fail, because her work was subjected to audits and evaluated with comparison to the work of her peers. She was told that the purpose of the audits was to point out the things she was not doing right and that when her claims were mistake-free, management

noted that they were "simple, straightforward." Mr. Maurmann allegedly told her that she was not doing as well as the other new people; that she was supposed to be at the journeyman level; and that she embarrassed herself in front of clients because she was not knowledgeable enough about the program. Appellant alleged that, on August 16, 2005, Ms. Lupien was scheduled to observe appellant's interview with a client, but arrived late. Afterward, when she complained to Ms. Lupien that her behavior was disruptive and intimidating, Ms. Lupien allegedly replied, "Well that is not your decision to make, is it?"

In an undated response to the Office's questions, appellant identified conditions that contributed to her alleged emotional condition. She received unwelcome treatment from management on her first day back from Viet Nam, after her grandfather's death. Appellant was subjected to interview audits, on the basis of a desk audit that was conducted in her absence. She felt isolated and humiliated because she was the only one subjected to the audit. Appellant alleged that she had to take sick leave due to flu symptoms, which she attributed to hostility and poor treatment at work. She felt attacked and criticized in a June 21, 2005 discussion with Ms. Mantzke regarding her desk audit. Appellant reiterated her allegation that Ms. Lupien requested her resignation on June 27, 2005, acting in a coercive, threatening and demeaning manner, and insinuating that she was only qualified to be a secretary. She claimed continuing harassment through a hostile work environment, claims audits, monitoring activities and isolation and stated that she felt paranoid, nauseated, anxious and worried. Appellant alleged that the Weingarten meeting was "open retaliation" for the filing of a grievance. She felt that the oral warning was an effort to fire her and caused her fear for her job.

In a July 20, 2005 memorandum to Ms. Lupien, appellant stated that she felt demeaned and frustrated by her treatment during the July 18, 2005 interview audit. In a June 30, 2005 memorandum, appellant informed Ms. Mantzke that Ms. Lupien had requested her resignation on June 27, 2005 in a threatening manner.

On January 4, 2006 Mr. Maurmann stated that restricting appellant's ability to seek assistance to certain individuals was designed to improve appellant's performance. He denied that appellant was being intentionally singled out for discriminatory purposes.

In a March 26, 2006 report, Dr. Manuel F. Bautista, a treating physician, related appellant's complaints that she was criticized for her work performance and asked to resign; that her work environment was increasingly hostile; and that there was a paucity of support when requested. He noted symptoms of depressed mood, tearfulness and feelings of hopelessness, exacerbated by feelings of nervousness, worry or panic whenever she thinks of going to work.

By decision dated June 2, 2006, the Office denied appellant's claim, finding that she had failed to establish any compensable, verified factors of employment.

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 or coverage of workers' compensation. Where the medical evidence establishes that the disability

results from an employee's emotional reaction to her regular or specially assigned employment duties or to a requirement imposed by the employing establishment, the disability comes within coverage of the Federal Employees' Compensation Act.[1] The same result is reached when the emotional disability resulted from the employee's emotional reaction to the nature of her work or her fear and anxiety regarding her ability to carry out her duties.[2] By contrast, there are disabilities having some kind of causal connection with the employment that are not covered under workers' compensation law because they are not found to have arisen out of employment, such as when disability results from 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.[3] Moreover, although administrative and personnel matters are generally related to employment, they are functions of the employer and not duties of the employee. Thus, the Board has held that reactions to actions taken in an administrative capacity are not compensable unless it is shown that the employing establishment erred or acted abusively in its administrative capacity.[4]

The Board has recognized the compensability of verbal altercations or abuse in certain circumstances; however, this does not imply that every statement uttered in the workplace will give rise to coverage under the Act.[5] For harassment or discrimination to give rise to a compensable disability, there must be evidence that the alleged actions did, in fact, occur. Mere perceptions of harassment or discrimination are not compensable.[6] When an employee alleges harassment and cites specific incidents, the Office or other appropriate fact finder must determine the truth of the allegations. The issue is not whether the claimant has established harassment or discrimination under EEO Commission standards. Rather, the issue is whether sufficient evidence has been submitted to factually support the claimant's allegations.[7]

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 which may be considered by a physician when providing an opinion on causal relationship, and which are not deemed factors of employment and may not be considered. When a claimant fails to implicate a compensable factor of employment, the Office should make a specific finding in that regard. If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor.[8] When the matter asserted is a compensable factor of

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[1] 5 U.S.C. §§ 8101-8193.

[2] *Lillian Cutler*, 28 ECAB 125, 129 (1976).

[3] *Id*. *See also Peter D. Butt, Jr.*, 56 ECAB ___ (Docket No. 04-1255, issued October 13, 2004).

[4] *See Charles D. Edwards*, 55 ECAB ___ (Docket No. 02-1956, issued January 15, 2004); *see also Ernest J. Malagrida*, 51 ECAB 287, 288 (2000).

[5] *See Charles D. Edwards, supra* note 4.

[6] *See Peter D. Butt, Jr., supra* note 3.

[7] *Id.*

[8] *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

employment and the evidence of record establishes the truth of the matter asserted, then the Office must base its decision on an analysis of the medical evidence.[9] As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim but rather must be corroborated by the evidence.[10]

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that her condition was caused or adversely affected by her employment.[11] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.[12]

ANALYSIS

The Board finds that appellant has not established any compensable factors of employment under the Act.

Appellant has not attributed her emotional condition to the performance of her regular duties or to any special work requirement arising from her employment duties under *Cutler*,[13] nor has appellant implicated her workload as having caused or contributed to her emotional condition. Rather, she has alleged discrimination on the part of her supervisors and coworkers. To the extent that disputes and incidents alleged as constituting harassment and discrimination by supervisors are established as occurring and arising from appellant's performance of her regular duties, these could constitute employment factors.[14] However, 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.[15] In the present case, management personnel denied that appellant was subjected to discrimination, and appellant has not submitted sufficient evidence to establish her allegations.[16] Appellant alleged that management began a campaign against her in an effort to force her to resign from her position as a claims representative. She

[9] *See Charles D. Edwards, supra* note 4.

[10] *Charles E. McAndrews*, 55 ECAB ___ (Docket No. 04-1257, issued September 10, 2004); *see also Arthur F. Hougens*, 42 ECAB 455 (1991) and *Ruthie M. Evans*, 41 ECAB 416 (1990) (in each case, the Board looked beyond the claimant's allegations to determine whether or not the evidence corroborated such allegations).

[11] *See Charles D. Edwards, supra* note 4.

[12] *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

[13] *See Lillian Cutler, supra* note 2.

[14] *See Lori A. Facey*, 55 ECAB ___ (Docket No. 03-2015, issued January 6, 2004). *See also David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, 42 ECAB 603, 608 (1991).

[15] *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

[16] *See Joel Parker, Sr.*, 43 ECAB 220, 225 (1991) (finding that a claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence).

claimed a hostile work environment and retaliation due to her filing of an EEO complaint. Appellant stated that, from June to September 2005, she experienced stress and that management threatened, bullied and degraded her in front of her peers and clients. She submitted no corroborating evidence, such as witness statements, to substantiate her allegations. On the other hand, appellant's managers denied that appellant was treated differently from other employees. Ms. Mantzke stated that appellant was provided feedback in an appropriate manner and not in a "threatening, bullying or degrading" manner as alleged by appellant. Appellant's general allegations that she was discriminated against by management are insufficient to establish that harassment did, in fact, occur. Thus, she has not established a compensable employment factor under the Act with respect to these above-described allegations of discrimination.

The record reflects that appellant filed an EEO complaint. Grievances and EEO complaints, by themselves, do not establish that workplace harassment or unfair treatment occurred.[17] Where an employee alleges discrimination and cites specific incidents, the Office or other appropriate fact finder must determine the truth of the allegations. The issue is not whether the claimant has established harassment or discrimination under EEO Commission standards. Rather, the issue is whether the claimant, under the Act, has submitted sufficient evidence to establish a factual basis for the claim by supporting his or her allegations with probative and reliable evidence.[18] In the instant case, there was no finding of discrimination, error or abuse on the part of the employing establishment. Rather, the parties entered into a mediated settlement, resolving the issue without admission of wrongdoing on the part of either party.

The Board finds that appellant's allegations that her supervisor wrongly performed intrusive audits of her work, monitored her break time, subjected her to a Weingarten meeting where she was criticized for her handling of telephone calls, and gave her an oral warning, relate to administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties, and do not fall within the coverage of the Act.[19] Although the assignment of work duties, disciplinary actions and the monitoring of work activities are generally related to the employment, they are administrative functions of the employer and not duties of the employee.[20] However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.[21] In this case, appellant has not submitted sufficient evidence to show that the employing establishment committed error or abuse with respect to these matters. The record reflects that, after receiving complaints from the public regarding appellant's telephone behavior and

[17] *See James E. Norris*, 52 ECAB 93 (2000). *See also Parley A. Clement*, 48 ECAB 302 (1997).

[18] *See James E. Norris, supra* note 16. *See also Michael Ewanichak*, 48 ECAB 354 (1997).

[19] *See Lori A. Facey, supra* note 14. *See also Janet I. Jones*, 47 ECAB 345, 347 (1996); *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

[20] *Id.*

[21] *See Richard J. Dube*, 42 ECAB 916, 920 (1991).

inappropriate handling of cases, the employing establishment reviewed appellant's conduct and initiated interview and desk audits, in order to identify the cause of appellant's performance issues. Management assigned three qualified mentors to assist appellant with her workload and refresher training in all topics identified by management as being problem areas, and provided several hours of training on dealing with the public, in an attempt to help her improve her customer service skills. After another series of complaints during the first week of September 2005, an oral warning was issued regarding her treatment of the public. The Board finds that the actions taken by the employing establishment were reasonable under the circumstances and did not constitute error or abuse. The record reflects numerous attempts on the part of the employing establishment to assist appellant in improving her telephone communication skills and client relations, which were appropriate given the fact that appellant was the subject of continuous complaints. Appellant has not established a compensable employment factor under the Act with respect to administrative matters.

Appellant's allegations of verbal harassment and abuse on the part of her supervisors are without merit. She alleged that Ms. Lupien insulted her and accused her of having poor interviewing skills and of being a poor customer service representative. Appellant further alleged that Ms. Lupien threatened to put her on a "PEP" if she refused to resign from her job by June 30, 2005, causing her to feel attacked and criticized. She claimed that Ms. Lupien constantly questioned what she was doing and told her that she "should already know the answer" when she asked her a question. When appellant complained that her behavior was disruptive and intimidating, Ms. Lupien allegedly stated, "Well that is not your decision to make, is it?" She alleged that Mr. Maurmann told her that she embarrassed herself in front of clients because she was not knowledgeable enough about the program. The Board has recognized the compensability of verbal altercations or abuse in certain circumstances; however, this does not imply that every statement uttered in the workplace will give rise to coverage under the Act.[22] Appellant's description of exchanges with her supervisors do not constitute verbal abuse. She has not identified any words, actions or gestures used by her managers to support abuse on their part. On the contrary, accepting her allegations as true, the statements made to appellant by her supervisors appear reasonable and within the scope of their administrative functions. Thus, appellant has not established a compensable employment factor under the Act with respect to these above-described allegations of harassment.

Appellant generally indicated that she felt paranoid, anxious, nauseated and worried as a result of her supervisors' treatment and believed that their actions were a systematic attempt to force her to resign. However, under the circumstances of this case, the Board finds that appellant's emotional reaction must be considered self-generated, in that it resulted from her perceptions regarding her supervisors' actions.[23] Appellant alleged that she was stressed and depressed as a result of being forced to remain working for her current supervisor and being

[22] *See Charles D. Edwards, supra* note 4.

[23] *See David S. Lee*, 56 ECAB ___ (Docket No. 04-2133, issued June 20, 2005).

prevented from transferring to another department. Appellant's frustration from not being permitted to work in a particular environment is not a compensable factor under the Act.[24]

For the foregoing reasons, the Board finds that appellant has not established any compensable employment factors under the Act and, therefore, has not met her burden of proof in establishing that she sustained an emotional condition in the performance of duty.[25]

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an emotional condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the June 2, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 30, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

[24] *See Cyndia R. Harrill*, 55 ECAB ___ (Docket No. 04-399, issued May 7, 2004).

[25] As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record; *see Margaret S. Krzycki*, *supra* note 8.