

that supervisors, Felicia Reynolds and Lawanda Rogers, attempted to turn Johnathan Navas, a coworker, against him and reassigned part of his workload to Mr. Navas. Ms. Rogers removed items from appellant's desk. Management refused to allow appellant to review his employee folder. Supervisors subjected him to excessive scrutiny, including following him when he traveled to housing applicants' locations. Appellant was reprimanded when a case was improperly removed from his desk by a coworker. In May 2007 his team leader told him that some files he was working on were unacceptable. Appellant alleged that he applied for new positions but was not selected. Management and coworkers harassed and discriminated against him. Appellant filed an Equal Employment Opportunity (EEO) complaint in May 2007.²

On June 29, 2007 the Office requested additional information, including a detailed description of the work situations or incidents that contributed to appellant's emotional condition and a comprehensive medical report explaining how these employment factors caused or aggravated his medical conditions.

In a July 10, 2007 statement, Laura Skipper, a coworker, noted that appellant was the target of unwarranted scrutiny and harassment at work by coworkers at the direction of management. Coworkers contacted employing establishment clients and asked them what appellant told them. In a July 11, 2007 statement, AnJanece Crain, a coworker, stated that appellant was discriminated against and harassed at work, as were other African-Americans. Ms. Skipper and Ms. Crain did not provide details of specific incidents of harassment and discrimination such as dates, individuals involved or what occurred.

Appellant submitted medical evidence in support of his claim. In a disability certificate dated June 13, 2007, Dr. Mary Rosenquist, an osteopath and family practitioner, indicated that appellant was disabled from work from June 13 to 20, 2007 due to elevated blood pressure and anxiety. In a September 18, 2007 report, she stated that anxiety and depression, caused by overwhelming stress at work, led to hypertension and insomnia. Dr. Rosenquist stated that appellant's federal employment contributed to his condition because of stress-related issues at work.

By decision dated August 17, 2007, the Office denied appellant's claim on the grounds that he failed to establish that his emotional condition was causally related to a compensable employment factor.

Appellant requested a review of the written record. By decision dated January 14, 2008, an Office hearing representative affirmed the August 17, 2007 decision.

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 an illness has some connection with employment but nevertheless does not come within the coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the

² There is no final EEO decision of record regarding the EEO complaint.

employment, the disability comes within the coverage of the Federal Employees' Compensation Act.³ On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.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. However, where the evidence demonstrates that the employing establishment either erred or acted abusively in the administration of personnel matters, coverage may be afforded.⁵

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 work factors of employment, which may be considered by a physician when providing an opinion on causal relationship, and which are not deemed compensable factors of employment and may not be considered.⁶ 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.⁷ 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.⁸ Where the claimant alleges compensable factors of employment, he must substantiate such allegations with probative and reliable evidence.⁹ When the matter asserted is a compensable factor of 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.¹⁰

ANALYSIS

Several of appellant's allegations are not established as having occurred. He alleged that Ms. Reynolds and Ms. Rogers attempted to turn Mr. Navas against him. Appellant alleged that Ms. Rogers removed items from his desk. He alleged that management refused to allow him to review his employee folder. There is insufficient evidence to support that these incidents occurred, as alleged. Appellant failed to support these allegations with specific, substantive,

³ 5 U.S.C. §§ 8101-8193.

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

⁵ *Michael Thomas Plante*, 44 ECAB 510 (1993).

⁶ *Dennis J. Balogh*, 52 ECAB 232 (2001).

⁷ *Margaret S. Krzycki*, 43 ECAB 496 (1992).

⁸ *See Charles E. McAndrews*, 55 ECAB 711 (2004).

⁹ *Joel Parker, Sr.*, 43 ECAB 220 (1991).

¹⁰ *See Charles D. Edwards*, 55 ECAB 258 (2004).

reliable and probative evidence. Therefore, these allegations do not constitute compensable employment factors.

Appellant alleged that management reassigned part of his workload to another employee, subjected him to excessive monitoring, reprimanded him when a case was improperly removed from his desk, criticized some of his work and improperly denied his applications for new positions. The assignment of work, monitoring employees, disciplining employees, evaluating job performance and selecting employees for particular positions are administrative functions of supervisors. The Board has held that an administrative or personnel matter will be considered to be an employment factor only where the evidence discloses error or abuse on the part of the employing establishment.¹¹ In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.¹² Appellant did not provide specific information pertaining to his allegations such as dates, individuals involved or what occurred. He failed to support these allegations with specific, substantive, reliable and probative evidence. Therefore, appellant's allegations regarding administrative or personnel matters do not constitute compensable factors of employment.

Appellant alleged generally that management and coworkers harassed and discriminated against him. Mere perceptions of harassment or discrimination are not compensable under the Act. Appellant's burden of proof is not discharged with allegations alone. He must support his allegations with probative and reliable evidence.¹³ Appellant's statements and the two statements from coworkers provided insufficient details such as dates, individuals involved or what occurred. Therefore, his allegations of harassment and discrimination do not constitute compensable factors of employment.

Appellant filed an EEO complaint in May 2007. However, the mere filing of an EEO complaint does not constitute a compensable factor of employment. The Board has held that grievances and EEO complaints, by themselves, do not establish wrongdoing by an employing establishment.¹⁴ There is no EEO decision or settlement agreement of record containing findings of error or abuse by employing establishment personnel. Consequently, appellant's EEO materials are not sufficient to establish a compensable factor of his employment.

Appellant failed to establish that his emotional condition was causally related to a compensable factor of employment. Therefore, the Office properly denied his emotional condition claim.

CONCLUSION

The Board finds that appellant failed to establish that his emotional condition was causally related to a compensable factor of employment.

¹¹ *Id.*

¹² *Janice I. Moore*, 53 ECAB 777 (2002).

¹³ *Cyndia R. Harrill*, 55 ECAB 522 (2004).

¹⁴ *Charles D. Edwards*, 55 ECAB 258 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated January 14, 2008 and August 17, 2007 are affirmed.

Issued: November 5, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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