

condition was due to his employment on June 1, 2005. Appellant stated that he did all the work he could do and that on April 1, 2005 he developed a problem with his neck, shoulders and arms as well as stress. On the reverse of the form, the employing establishment noted that appellant was terminated on December 21, 2005.

Appellant also attributed his emotional condition to actions of his supervisors, noting that he was threatened with absence without leave; his supervisor failed to keep his personal information confidential; and she lied about an agreement to fax medical records. He stated that he was required to perform extra work duties which increased his hand pain.

In a letter dated March 1, 2007, the Office requested additional factual and medical evidence in support of appellant's emotional condition claim. Appellant submitted a note dated January 29, 2007 from Dr. Moses Ramos, a Board-certified psychiatrist, who stated that appellant's on-the-job injury resulted in termination and depression. Dr. Ramos noted that appellant continued to experience paranoia and depression. Appellant completed an additional factual statement and alleged that his supervisor, Shirley Boles, stated that she did not believe that he was injured. He alleged that she discussed his injury with other employees, that she repeatedly called him at home "stalking" him and that she subjected him to discrimination based on his disability.

By decision dated December 31, 2007, the Office denied appellant's claim for an emotional condition finding that he failed to substantiate a compensable factor of employment as causing or contributing to his diagnosed depression.

Appellant, through his attorney, requested an oral hearing on January 18, 2008. He testified at the oral hearing on April 15, 2008 and attributed his major depression to his accepted claim for carpal tunnel syndrome, his additional physical conditions of left carpal tunnel, bilateral cubital tunnel syndrome and radiculopathy C3-7 as well as to actions of his supervisors regarding the processing of his carpal tunnel claim. Appellant stated that he was instructed not to file a claim for workers compensation and that his immediate supervisor stated that she believed that appellant should be able to work.

By decision dated July 24, 2008, the hearing representative affirmed the Office's December 31, 2007 decision finding that appellant had not submitted sufficient medical opinion evidence to establish that he developed depression due to his accepted carpal tunnel syndrome or to substantiate any other compensable factor of employment as causing or contributing to his diagnosed condition.

LEGAL PRECEDENT -- ISSUE 1

Workers' compensation law does not apply to each and every injury or illness that is somehow related an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of worker's compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation

Act.¹ 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.²

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 the coverage of the Act.³ While an administrative or personnel matter will be considered an employment factor where the evidence discloses error or abuse on the part of the employing establishment, mere perceptions are insufficient. In determining whether the employing establishment erred or acted abusively, the Board determines whether the employing establishment acted reasonably.⁴ Although the handling of leave requests and attendance matters and compensation claims are generally related to employment, they are administrative functions of the employer and not duties of the employee.⁵

Verbal altercations and difficult relationships with supervisors, when sufficiently detailed by the claimant and supported by the record, may constitute factors of employment. Although the Board has recognized the compensability of verbal abuse in certain circumstances this does not imply that every statement uttered in the workplace will give rise to coverage under the Act.⁶

For harassment or discrimination to give rise to a compensable disability, there must be evidence which establishes that the acts alleged or implicated by the employee did, in fact, occur. Mere perceptions of harassment or discrimination are not compensable under the Act.⁷ A claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence. Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred.⁸

ANALYSIS -- ISSUE 1

Appellant alleged his supervisor, Mrs. Boles, stated that she did not believe that he was injured and that she believed he could work. He also stated that she discussed his injury with other employees, that she repeatedly called him at home "stalking" him and that she subjected him to discrimination based on his disability. Appellant further stated that Mrs. Boles threatened

¹ 5 U.S.C. §§ 8101-8193.

² See *Thomas D. McEuen*, 41 ECAB 387, 390-91 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

³ *James E. Norris*, 52 ECAB 93, 100 (2000).

⁴ *Bonnie Goodman*, 50 ECAB 139, 143-44 (1998).

⁵ *David C. Lindsey, Jr.*, 56 ECAB 263, 270 (2005); *James P. Guinan*, 51 ECAB 604, 607 (2000).

⁶ *Marguerite J. Toland*, 52 ECAB 294 (2001).

⁷ *Reco Roncoglione*, 52 ECAB 454, 456 (2001).

⁸ *Penelope C. Owens*, 54 ECAB 684, 686 (2003).

to find him absent without leave, and that she lied about an agreement to fax medical records. He stated that he was instructed not to file a claim for workers' compensation.

Appellant attributed his emotional condition to a difficult relationship with his supervisor alleging that she did not believe him to be totally disabled, that she telephoned him repeatedly at home, that she improperly discussed his injury with coworkers and that she lied. He has not submitted any evidence corroborating these allegations and has not established that Mrs. Boles made any inappropriate statements or actions. Therefore appellant has not established a compensable factor of employment in this regard.

In his factual statements, appellant attributed his emotional condition to difficulties processing his occupational disease claim for right carpal tunnel syndrome. Although he has alleged that he was instructed by a supervisor not to file a claim and that Mrs. Boles hindered the development of his claim, appellant has not submitted any evidence substantiating his claim. There is no evidence in the record supporting his allegations of error or abuse in the administrative function of claim development.

Appellant alleged that Mrs. Boles discriminated against him due to his disability. As noted, he must establish that discrimination occurred through reliable and probative evidence. Appellant has submitted no evidence of discrimination such as witness statements to support this allegation. His perceptions are not sufficient to substantiate this compensable factor of employment.

For the foregoing reasons, appellant has not established any compensable employment factors under the Act and, therefore, has not met his burden of proof in establishing that he sustained an emotional condition in the performance of duty.⁹

LEGAL PRECEDENT -- ISSUE 2

It is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional conduct.¹⁰ In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, then a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.¹¹

A claimant bears the burden of proof to establish his claim for a consequential injury. As part of this burden, a claimant must present rationalized medical opinion evidence, based on a

⁹ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record. See *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

¹⁰ *Albert F. Ranieri*, 55 ECAB 598, 602 (2004); A. Larson, *The Law of Workers' Compensation* § 10.01 (2000).

¹¹ *Charles W. Downey*, 54 ECAB 421, 422-423 (2003).

complete factual and medical background, showing causal relationship.¹² Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.¹³ Rationalized medical evidence, is evidence which relates a work incident, work injury or factors of employment to a claimant's condition, with stated reasons of a physician.¹⁴ The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.¹⁵

ANALYSIS -- ISSUE 2

Appellant attributed his emotional condition in part to his accepted right carpal tunnel syndrome. In order to establish that his accepted employment injury caused or contributed to his diagnosed emotional condition, he must submit medical opinion evidence explaining the causal relationship between his carpal tunnel syndrome and his depression. The record contains a report dated January 29, 2007 from Dr. Ramos, a Board-certified psychiatrist, opining that appellant's "on-the-job injury" resulted in depression. This report is not sufficient to meet appellant's burden of proof as Dr. Ramos did not provide a detailed history of injury describing appellant's accepted condition and did not provide medical reasoning explaining how and why carpal tunnel syndrome caused or contributed to appellant's depression. As appellant has not submitted a detailed and well-rationalized medical report in support of his claim.

CONCLUSION

The Board finds that appellant has not substantiated a compensable factor of employment as causing or contributing to his emotional condition. The Board further finds that he has not submitted sufficient rationalized medical opinion evidence to establish that he developed an emotional condition as a consequence of his accepted right carpal tunnel syndrome.

¹² *Id.*

¹³ *Steven S. Saleh, 55 ECAB 169, 172 (2003).*

¹⁴ *Charles W. Downey, supra note 11.*

¹⁵ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the July 24, 2008 decision of the Office of Workers' Compensation Programs' hearing representative and the December 31, 2007 Office decision are affirmed.

Issued: June 5, 2009
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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