

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

D.C., Appellant	)	
	)	
and	)	<b>Docket No. 09-1274</b>
	)	<b>Issued: March 18, 2010</b>
U.S. POSTAL SERVICE, POST OFFICE, Mid, FL, Employer	)	
	)	

*Appearances:*  
Keith D. Cleborne, for the appellant  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On April 17, 2009 appellant filed a timely appeal of decisions of the Office of Workers' Compensation Programs dated June 30, 2008 and January 13, 2009 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 condition in the performance of duty.

**FACTUAL HISTORY**

On July 18, 2007 appellant, then a 47-year-old manager, filed an occupational disease claim alleging that she developed post-traumatic stress syndrome (PTSD), general anxiety disorder, panic disorder and depression due to factors of her federal employment. She first realized that her condition was caused or aggravated by employment factors on April 27, 2007.

In an undated narrative statement, appellant identified incidents of employment that allegedly caused or contributed to her emotional condition. She stated that her district manager,

Kate Wiley, created an atmosphere of fear and intimidation by making degrading, intimidating and demoralizing statements in an inappropriate and intense voice. Ms. Wiley reportedly told her staff, "I do n[ot] need you all to get promoted. I done been promoted five times in six years. I [a]m just here to get the cloud off Central Florida's head." She told the staff that she could fire everyone because they were noncompliant, and that she had "never seen such laziness." Ms. Wiley attacked the staff in a loud and aggressive manner, stating that they failed to meet any of their goals. Her style was to "get in your face." At an April 10, 2007 staff meeting, Ms. Wiley berated appellant in front of her peers and subordinates regarding audit scores. Appellant felt Ms. Wiley's comments were an attack on her integrity and they made her feel worthless. She indicated that Ms. Wiley's management style was "set up for failure," because it was impossible to do what she expected within the allotted time. Ms. Wiley discouraged feedback and exhibited a lack of trust

Appellant claimed that she was extremely stressed by her huge workload, due, in part, to added responsibilities following the arrival of the new district manager and the increased time required to address voluminous e-mails. She routinely worked 65 to 70 hours per week, including Saturday. Appellant generally did not go to lunch and found it necessary to work Saturdays and Sundays to meet the requirements of her position. The majority of her workday involved preparing for daily telecoms and weekly staff meetings, where she was subjected to very intense, rapid-fire interrogation, for which she was required to prepare extensively. Appellant carried large binders to the meetings to support her responses to Ms. Wiley's questions. She spent 6 to 12 hours each week preparing for the staff meetings; however, her presentation was often skipped and her efforts were wasted. The district manager also required daily reports on 3700 carriers, a task appellant described as "overwhelming." Ms. Wiley often made last-minute requests for reports, which required appellant to work nights and weekends.

Appellant submitted a June 29, 2007 report from Dr. Christopher W. Conavay, a treating physician, who diagnosed "PTSD, due to a long-term hostile work environment;" panic disorder and generalized depression. In a July 18, 2007 report, Dr. Joseph L. Trim, a licensed mental health counselor, diagnosed PTSD; panic disorder, generalized anxiety disorder and major depression.

On August 20, 2007 the Office informed appellant that the information submitted was insufficient to establish her claim and requested a detailed description of the conditions or incidents she believed caused or contributed to her illness, as well as witness statements or other evidence corroborating her allegations. It advised her to submit a medical report providing a diagnosis and an opinion with an explanation as to how incidents of federal employment contributed to the condition.

Appellant submitted witness statements from coworkers regarding her work environment. On September 11, 2007 Sherry Siercks, manager, stated that Ms. Wiley did not treat her employees with dignity or respect and that she personally witnessed her heap verbal abuse, threats and injustices upon managers. The district manager allegedly targeted appellant as her "main object of abuse" and publicly berated her. Staff meetings were "nothing more than attack sessions for Ms. Wiley to publicly humiliate and belittle managers." Ms. Wiley reportedly stated: "I have never seen a group of people so lacksadasive;" "I do n[ot] need y[ou] all to get promoted. I done got promoted five times in six years;" "You suck. Your performance in the last three years sucks." Manager Siercks stated: "Appellant was reduced to producing volumes upon volumes of information for every single meeting with Wiley. Most of the time Kate would

try to find questions not contained in the material she indicated would be covered in order to jump on [appellant] for not having the answer at her fingertips.”

On September 6, 2007 manager, Steve Hooks, stated that appellant was the target of Ms. Wiley’s berating, belittling and abusive behavior. The district manager required that the staff be available for telephone calls “24/7.” She routinely scheduled impromptu meetings during nonwork periods. For example, one Friday afternoon during a 4:30 p.m. telecom, Ms. Wiley instructed all managers to be sure they were in the office on Saturday. One Monday night at 8:00 p.m., she directed all managers to reconvene immediately, because of poor job performance. Mr. Hooks stated that appellant rarely went to lunch because she was preparing documentation for the district manager, and she willingly worked 10 hours per day or more, as well as weekends whenever necessary.

Appellant submitted a September 7, 2007 statement from Maxine Counts, manager of human resources for the employing establishment. Ms. Counts indicated that she had witnessed Ms. Wiley publicly degrade and abuse many of her personnel, including appellant, on numerous occasions. Examples provided included Ms. Wiley’s statements that she could “fire everyone in this room;” that her staff “sucked” and that she did not need them to obtain a promotion. Ms. Counts stated: appellant was required to provide voluminous reports to the district manager on a daily basis; to attend multiple daily teleconferences; to conduct teleconferences with little or no notice; to prepare complex presentations for staff meetings and to respond to every question asked by Ms. Wiley with a data sheet to support her answer. She reported that appellant always worked an extended schedule of nine hours or more prior to Ms. Wiley’s appointment as district manager and that, after her arrival, appellant worked more than 12 hours per day, Monday through Friday, and spent time on weekends, as necessary. Ms. Counts noted that appellant stopped eating lunch due to time constraints.

The record contains letters from some of Ms. Wiley’s former peers and subordinates, who supported her management style. On September 14, 2007 Maribeth Norman, officer in charge of the West Palm Beach location, stated that Ms. Wiley was responsible for the “positive numbers” in the Central Florida Cluster. Judy Huang, the district manager’s secretary, indicated that Ms. Wiley operated with enthusiasm and momentum and that she had never treated her in an abusive manner. On September 12, 2007 manager Earl Flowers stated that Ms. Wiley was a vital asset and that she was responsible for much progress in Central Florida. Jennifer Stevenson, West Palm Beach plant manager, noted that the Central Florida district had made great strides, largely due to Ms. Wiley’s effective management style. Kathy Hugging stated that Central Florida was not set up for failure and that Ms. Wiley was bold and extremely strong in her approach. Salvatore Vacca stated that Ms. Wiley had a great management style. Rufus Graham indicated that Ms. Wiley helped turn the district around and that he did not feel intimidated by her. David Kolp, Boca Raton postmaster, stated that Ms. Wiley was very demanding, but that she did not engage in harassment or intimidation.

On October 2, 2007 the employing establishment controverted appellant’s claim. The employing establishment noted that Ms. Wiley did not require appellant to work 70 hours per week and holidays, nor did she ever set her schedule. It contended that the number of teleconference calls, power point presentation, e-mails, etc. was “all part of the work environment at all facilities,” and that Ms. Wiley had no control on the number of e-mails received by any of her direct reports. The employing establishment stated that Ms. Wiley followed proper procedure in obtaining advance approval of leave requests. Further, the

employing establishment defended the district manager's management style, stating that she was not loud and berating toward appellant, but rather was direct and firm with her information and requests.

In an undated statement, Ms. Wiley responded to appellant's allegations. Indicating that she never mandated that appellant work 70 hours per week, she stated: "There has been long work hours for everyone in order to bring the district up to speed, however I do not tell her which hours to work and how long to work. [Appellant] obviously did not manage her time properly by administering and delegating tasks and duties to her staff." She further stated:

"I never scheduled [appellant] to work on a Sunday. If she did, she did this on her own. I did require office visits by she and her staff on Saturdays to ensure compliance issues at the beginning of FY 2007. The Quarter 1 performance was very poor for Central Florida, and I not only assigned [appellant] tasks for Saturdays, but other direct reports as well. They were not required to work the entire day and it was [appellant's] responsibility to schedule her staff within reason. I am sure that this is not uncommon practice for the managers of operations programs departments across the nation in every district."

Ms. Wiley acknowledged the challenge of every manager in handling the large volume of e-mails. She stated, however, that all managers throughout the country have the same problem, and that she had no control over the number of e-mails received. Ms. Wiley acknowledged that appellant was involved in the semi-weekly telecoms and weekly staff meetings, but stated that she did not delegate duties within her department as necessary. She acknowledged that appellant brought binders to the weekly staff meetings, but denied that she required her to do so. Ms. Wiley denied speaking to appellant in a loud, berating manner or stating that she could fire everyone. She informed appellant in her April 11, 2007 mid-year review that she needed to delegate duties to her staff and to relinquish some duties that she finds overwhelming. Ms. Wiley also noted that appellant needed to establish a better relationship with plant operations and to hold "delivery" accountable for poor performance.

Appellant submitted an October 31, 2007 report from Douglas J. Mason, a licensed clinical social worker, who diagnosed PTSD and depression from the work environment. The record also contains October 18, 2007 notes from Dr. Conovay. Appellant submitted statements from William Goble (retired manager), Robert King (Orlando postmaster), Alfred Milch (finance manager), and David Kolp, reflecting agreement with some of the incidents described by appellant.

By decision dated February 15, 2008, the Office denied appellant's claim on the grounds that she failed to establish any compensable factors of employment.

On March 1, 2008 appellant requested reconsideration. In support of her request, she provided a December 12, 2008 psychiatric evaluation from Dr. Richard E. Seely, a Board-certified psychiatrist.

In a decision dated June 30, 2008, the Office denied modification of its February 15, 2008 decision.

On September 15, 2008 appellant requested reconsideration. Her representative contended that three factors contributed to appellant's emotional condition, namely, an unreasonable workload; a "6-alarm, fire-like" level of intensity created by Ms. Wiley and an abusive work environment. The representative reiterated earlier allegations made regarding appellant's overwhelming work requirements and abusive behavior by the district manager.

The record contains a position description for manager of operations program support. Functions included managing the ongoing review and evaluation of service and quality performance at a major processing and distribution center and providing technical support to small post offices within the area. Duties and responsibilities included managing the development of local plans to implement national and area processing and distribution programs and policies; managing the review and evaluation of local operations; ensuring that service and quality goals were met; working with local managers to improve operations and procedures; managing the development of local requirements for space, facilities, equipment and staffing; working with local managers to develop economic justification, assess alternatives and determine priorities; managing the activities of a very small size group of operations specialists; meeting with customers, major mailers and suppliers on a regular basis to resolve problems and/or improve service; participating in the development of the local operating budget; tracking budget performance and ensuring that budget goals are met.

Appellant submitted a document entitled "Clear Expectations for Fiscal Year 2007." Its stated purpose was to define for appellant's expectations of her performance that were not defined under National Performance Assessment for remaining Fiscal Year 2007. Appellant's role in budget management was to assist customer service management in implementing efficiency improvements to achieve the budget performance. She was informed that overnight performance required improvement in order to achieve goal and that machine performance needed to be addressed on a daily basis. Noting her responsibility for the administration of USPS Safety Programs in her area of responsibility, appellant was directed, at a minimum, to periodically review the mandatory safety programs that are required to be in place and to ensure their continued compliance, and to ensure that all internal reviews conducted by her and her staff, evaluate safety compliance in the employee environment and provide management with the necessary information to correct problem areas.

In a December 28, 2006 memorandum, the employing establishment advised that, beginning January 2007, managers were required to have face-to-face meetings with all employees in each quarter. Further, the managers were required to forward documentation of these meetings to human resources at the end of each quarter.

Appellant submitted minutes and transcripts of district staff meetings from October 6, 2006 through July 12, 2007. On October 6, 2006 Ms. Wiley outlined procedures to be followed under her supervision. The district director would have weekly staff meetings with the managers. Each manager would prepare a presentation to include slides, which were to be provided to "I.T." by noon on the day prior to the meeting, and full color pictures of the presentation, which would be provided as a hand-out. In addition, Ms. Wiley would require daily reports, which insured compliance with internal procedures; daily telecoms between plant managers, MIPs, maritime managers, transportation managers and Tour 3 MDOs; daily telecoms between MPOOs and level 26 PMs; quarterly meetings between plant managers and direct reports; and semi-annual meetings between MPOOs, staff and 18 and below PMs.

At the October 13, 2006 staff meeting, Ms. Wiley directed the managers to provide her with a daily "condition report," which would include information on first class mail on hand, plan failure, and delayed mail. She stated that, during the Christmas holidays, daily telecoms would also occur on Sundays.

On January 4, 2007 Ms. Wiley instructed the managers to conduct a recognition ceremony in February 2007, which would require them to shut down plant operations for 35 to 40 minutes. On January 9, 2007 she advised the managers that she expected them to be "running full" on the Saturday, Sunday and Monday surrounding the Martin Luther King holiday. On January 30, 2007 the district director established a procedure whereby the managers would prepare a daily spreadsheet tracking work hours.

On February 19, 2007 Ms. Wiley stated, "My desire for [this] district is not to make me famous, not to get me a bonus. I already done had four promotions in the last six years. I do n[ot] need you all to get me another promotion. I have V.P.'s calling me wanting to take me any day."

On February 21, 2007 Ms. Wiley stated that overtime requests should be submitted to her for her approval. On February 27, 2007 she advised the managers that they should be available "24/7" for telephone calls. Ms. Wiley reiterated that they were to conduct telecoms six days per week. She also ordered them to have a special telecom with their direct reports within 48 hours to explain standard operating procedures.

April 10, 2007 minutes reflect that Ms. Wiley decided to forego the slides, due to the large amount of material to be covered at the staff meeting. She directed all managers to be vigilant in answering their cellular telephones and checking messages, noting that she would not call during nonwork hours unless it was absolutely necessary. Ms. Wiley requested action plans within 21 days to address the results of the audits. On May 7, 2007 she requested feedback within the day on the items she presented at the staff meeting. Ms. Wiley discussed the formation of an e-mail focus group, designed to address the large number of e-mails being sent and received. She stated, "There is too much jamming up the system." On June 19, 2007 Ms. Wiley announced certain procedural changes, which included prior approval for annual leave and monthly meetings between managers and postmasters.

The record contains a September 25, 2008 letter from the Office of Personnel Management granting appellant retirement disability. OPM found that she was disabled from her position as Manager, OPS Program Support due to PTSD and major depressive disorder.

On November 10, 2008 Ms. Wiley again denied appellant's allegations. She stated that she "never demanded 24/7" of her managers; did not tell anyone that she could fire them at any time and did not require appellant to work 70 hours per week. Ms. Wiley acknowledged that it was not uncommon for a manager to come into the office on his own time to work on assigned tasks.

In a December 15, 2008 statement, appellant's representative contended that, as the employing establishment had provided no evidence to rebut appellant's allegations, they should be accepted as factual.

By decision dated January 13, 2009, the Office denied modification of its previous decision, on the grounds that appellant had failed to establish a compensable employment factor.

### **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 the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to her regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act. 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 her frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>1</sup>

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.<sup>2</sup> Assignment of work is an administrative function of the employer,<sup>3</sup> as is an investigation by the employing establishment.<sup>4</sup>

Where the claimant alleges compensable factors of employment, she must substantiate such allegations with probative and reliable evidence.<sup>5</sup> The fact that a claimant has established compensable factors of employment does not establish entitlement to compensation. The employee must also submit rationalized medical opinion evidence establishing that she has an emotional condition that is causally related to the compensable employment factor.<sup>6</sup> The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific compensable employment factors identified by appellant.<sup>7</sup>

### **ANALYSIS**

Appellant alleged that she sustained an emotional condition as a result of a number of incidents and conditions at work. The Board finds that appellant had identified a compensable

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>2</sup> *Michael Thomas Plante*, 44 ECAB 510 (1993).

<sup>3</sup> *James W. Griffin*, 45 ECAB 774 (1994).

<sup>4</sup> *Jimmy B. Copeland*, 43 ECAB 339 (1991).

<sup>5</sup> *Joel Parker, Sr.*, 43 ECAB 220 (1991).

<sup>6</sup> *James W. Griffin*, *supra* note 3.

<sup>7</sup> *Donna Faye Cardwell*, 41 ECAB 730 (1990).

factor of employment. Therefore, this case is not in posture for a decision as to whether she sustained an emotional condition in the performance of duty.

Appellant alleged that her district manager created a hostile work environment by making degrading and demoralizing statements in a loud and abusive voice; discriminated against her by targeting her in staff meetings; and humiliated her and took pleasure in berating her in front of her peers and subordinates. In support of her claims, she submitted statements from witnesses who alleged generally that Ms. Wiley set unreasonably high performance standards and generally belittled, berated and abused appellant and other managers. Appellant has not provided any evidence to corroborate a specific allegation of harassment or discrimination, as required. The employing establishment denied these allegations and appellant has not submitted sufficient evidence to establish that she was harassed by her supervisor, as alleged.<sup>8</sup> Appellant also alleged that Ms. Wiley set the district up for failure. However, the district manager denied this allegation and, by setting high standards for her managers, acted in a manner that, instead, set the district up for success. Thus, the Board finds that appellant has not established a compensable employment factor under the Act with respect to these allegations.

The Board has recognized the compensability of verbal abuse in certain circumstances. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under the Act.<sup>9</sup> Appellant alleged that Ms. Wiley made degrading, intimidating and demoralizing statements in an inappropriate and intense voice. She reportedly told her staff, “I do n[o]t need you all to get promoted. I done been promoted five times in six years. I [a]m just here to get the cloud off Central Florida’s head.” Ms. Wiley told the staff that she could fire everyone because they were noncompliant, and that she had “never seen such laziness.” In a loud and aggressive manner, she told her staff that they failed to meet any of their goals; that she could “fire everyone in this room;” and that they “sucked.” Appellant stated that these comments were an attack on her integrity, and they made her feel worthless. Assuming *arguendo* that the statements were actually made, the Board finds that they do not constitute verbal abuse or harassment. While the statements may have engendered offensive feelings, they did not sufficiently affect the conditions of employment to constitute a compensable factor.<sup>10</sup> The Board finds that appellant’s emotional reaction to Ms. Wiley’s statements must be considered self-generated.<sup>11</sup>

Appellant alleged that Ms. Wiley routinely scheduled impromptu meetings; requested immediate responses to the items she presented at a staff meeting; operated at a “6-alarm, fire-like” level of intensity; often skipped appellant’s presentations in staff meetings; and required prior approval for annual leave and overtime. These allegations relate to administrative or personnel matters, unrelated to her regular or specially assigned work duties, and do not fall

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<sup>8</sup> See *Joel Parker, Sr.*, *supra* note 5 at 225 (1991) (finding that a claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence).

<sup>9</sup> See *Mary A. Sisneros*, 46 ECAB 155, 163-64 (1994); *David W. Shirey*, 42 ECAB 783(1991).

<sup>10</sup> See *Denis M. Dupor*, 51 ECAB 482, 486 (2000).

<sup>11</sup> See *David S. Lee*, 56 ECAB 602 (2005).



within the coverage of the Act.<sup>12</sup> Although the handling of disciplinary actions and leave requests, the assignment of work duties 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.<sup>13</sup> 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.<sup>14</sup>

In this case, appellant has not submitted sufficient evidence to show that the employing establishment committed error or abuse with respect to these matters. Ms. Wiley explained that her actions were designed to improve the performance of the Central Florida district. While appellant has indicated a dislike for Ms. Wiley's intense and demanding style, she has not shown any evidence of abuse regarding her established policies. The Board finds that the district manager's actions were reasonable, given the nature of her task to quickly improve the performance of her district, and appellant has not provided evidence to the contrary. Appellant submitted statements from coworkers who corroborated her statements. These statements do not provide evidence of error or abuse on the part of the employing establishment. Consequently, appellant has not established a compensable factor of employment in this regard.

The record reflects that the Office of Personnel Management found that appellant was disabled from her position as Manager, OPS Program Support due to PTSD and major depressive disorder. However, OPM's determination, by itself, does not establish that workplace harassment or unfair treatment occurred.<sup>15</sup> Where 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 whether the claimant, under the Act, has submitted sufficient evidence to establish a factual basis for the claim by supporting her allegations with probative and reliable evidence.<sup>16</sup> Appellant has failed to do so in this case.

Appellant alleged that Ms. Wiley's "in your face" management style was demoralizing. She contended that it discouraged feedback and exhibited a lack of trust. However, 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 and is not compensable under the Act.<sup>17</sup>

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<sup>12</sup> See *Lori A. Facey*, 55 ECAB 217 (2004). 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).

<sup>13</sup> *Id.*

<sup>14</sup> See *Richard J. Dube*, 42 ECAB 916, 920 (1991).

<sup>15</sup> *James E. Norris*, 52 ECAB 93 (2000). See also *Parley A. Clement*, 48 ECAB 302 (1997).

<sup>16</sup> See *James E. Norris*, *supra* note 15. See also *Michael Ewanichak*, 48 ECAB 354 (1997).

<sup>17</sup> See *Cyndia R. Harrill*, 55 ECAB 522 (2004) (the Board noted that claimant's reaction to perceived poor management must be considered self-generated in that it resulted from her frustration in not being permitted to work in a particular environment.)

The Board has held that emotional reactions to situations in which an employee is trying to meet her regularly or specially assigned position requirements are compensable.<sup>18</sup> In *Joseph A. Antal*,<sup>19</sup> a tax examiner filed a claim alleging that his emotional condition was caused by the pressures of trying to meet the production standards of his job. The Board, citing the principles of *Cutler*,<sup>20</sup> found that the claimant was entitled to compensation. In *Tina D. Francis*,<sup>21</sup> where appellant claimed that stress related to her regular and specially assigned supervisory duties caused her emotional condition, the Board found that she had established compensable employment factors.

The evidence of record establishes that appellant was required to provide voluminous reports to the district manager on a daily basis; to attend multiple daily teleconferences; to conduct teleconferences with little or no notice; to prepare complex presentations for staff meetings; and to respond to questions asked by Ms. Wiley with a data sheet to support her answer. The evidence also establishes that appellant always worked an extended schedule of nine hours or more prior to Ms. Wiley's appointment as district manager and that, after her arrival, appellant worked more than 12 hours per day, Monday through Friday, and spent time on weekends, as necessary. Ms. Wiley denied that she ever required appellant to work a 70-hour week. She noted that everyone had worked long hours in order to bring the district up to speed, but that she had not told appellant which hours to work, or how long to work. However, it is appellant's emotional reaction to the requirements imposed by the employer that triggers coverage under the Act. In this case, she has claimed that stress related to her regular and specially assigned duties caused her emotional condition. Given that these duties were part of her job requirements, the Board finds that she has established compensable employment factors.

In the present case, appellant has established employment factors with respect to the above-described work duties. As she has established compensable employment factors, the Office must base its decision on an analysis of the medical evidence. The Office found there were no compensable employment factors and did not analyze or develop the medical evidence. The case will be remanded to the Office for this purpose.<sup>22</sup> After such further development as deemed necessary, the Office should issue an appropriate decision on this claim.

On appeal, appellant contends that her emotional condition was the result of a toxic work environment and abuse of discretion. For reasons stated above, the Board finds appellant's argument to be without merit.

### **CONCLUSION**

The Board finds that the case is not in posture for decision regarding whether appellant sustained an emotional condition in the performance of duty. As appellant has established

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<sup>18</sup> See *Tina D. Francis*, 56 ECAB 180 (2004). See also *Georgia F. Kennedy*, 35 ECAB 1151, 1155 (1984); *Joseph A. Antal*, 34 ECAB 608, 612 (1983).

<sup>19</sup> 34 ECAB 608 (1983).

<sup>20</sup> *Supra* note 1.

<sup>21</sup> *Supra* note 18.

<sup>22</sup> See *Lorraine E. Schroeder*, 44 ECAB 323, 330 (1992).

employment factors as described above, the case is remanded to the Office for analysis and development of the medical evidence as it deems necessary and for issuance of an appropriate merit decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated January 13, 2009 and June 30, 2008 are set aside, and the case is remanded to the Office for proceedings consistent with this decision of the Board.

Issued: March 18, 2010  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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