United States Department of Labor
Employees' Compensation Appeals Board

J.B., Appellant	)	
and	)	**Docket No. 10-181**
	)	**Issued: October 1, 2010**
U.S. POSTAL SERVICE, POST OFFICE, Lansdowne, PA, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On October 28, 2009 appellant filed a timely appeal of a September 28, 2009 decision of the Office of Workers' Compensation Programs 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 August 26, 2008 appellant, then a 49-year-old mail processing clerk, filed an occupational disease claim alleging that she experienced severe stress due to conditions of employment. She was required to provide her signature and/or password on three accountable jobs simultaneously, in spite of her concern that lack of proper equipment and time was forcing her to violate postal policy and procedure.

A September 4, 2008 hospital discharge signed by Dr. Ronald Lutz, a Board-certified internist, noted that she had been treated for a stress reaction. A September 11, 2008 work excuse from Dr. Andrea D. Pedano, a treating physician, diagnosed an "acute stress reaction" on August 22, 2008.[1] In a December 4, 2008 report, Danielle Schur, a licensed clinical social worker, stated that she had been treating appellant since September 22, 2008, for anxiety related to work stressors, including harassment/intimidation and unethical/fraudulent practices.

Appellant alleged that she was unable to perform the duties of her job as required because she was not provided with computer and floor scale needed to weigh the mail properly. As the equipment available was outdated and not properly calibrated, it was impossible to verify bulk mailings accurately and in accordance with employing establishment procedures.

Appellant alleged that she was repeatedly pressured to violate procedures by accepting bulk mailings without verifying them. On Friday August 22, 2008 Supervisor Marianne Hahn, instructed appellant to verify a mailing without resolving a discrepancy in weight. On another occasion, Supervisor Dan Nearey asked her to put two containers full of business mail on the mail truck without weighing them, so that she would have time to do something else he needed done. Supervisor Kim Floyd repeatedly instructed appellant to input postage statements into postal one later in the week, after the mail was already released, so that she could attend to clearing accountables from the letter carriers as they returned to the key desk at the end of the day.

Appellant alleged that she was harassed by both management and customers for adhering to postal policies (*i.e.*, taking a 10-piece sample and a total weight, calculating a verified piece count from the two numbers and then contacting the customer about any discrepancies). When she began working in the business mail acceptance job, she found errors in some of the paperwork submitted by customers with their mailings. When appellant corrected the errors, the result was higher postage charged to the customer. The postmaster attempted to intimidate her into accepting the customers paperwork as submitted, telling her that she was making the customers unhappy and that there had never been any problem with their paperwork until she arrived.

In a December 20, 2007 letter to the employing establishment, Frank R. DiDaniele, Jr., vice president of Ad Pro Direct, complained that, since appellant's appointment to weighing and inspection duties, there had been discrepancies between his company's certified weights and determination of required postage and those of appellant. He opined that she was either trained incorrectly, making egregious mistakes without verifying her own work, or worse. Appellant's attitude was confrontational and based on the "we [a]re right and you [a]re wrong" principle. Her customer service skills were nonexistent. Mr. DiDaniele questioned appellant's ability to properly weigh jobs to verify correct assignment of postage. He noted a number of mistakes which resulted in her demanding extra postage or the consequence of nonprocessing of jobs which she has inspected. Mr. DiDaniele documented several instances where he had been overcharged. He found it unacceptable and egregious that appellant could not readily identify that her scale was off in favor of the postal service.

[1] The record contains subsequent return-to-work slips from Dr. Pedano for the period January 19 to February 26, 2009 reflecting a diagnosis of post-traumatic stress disorder.

Appellant contended that she was overworked. She was assigned to two other accountable jobs in addition to the business mailings, with no other employee to assist her. On several occasions appellant asked Postmaster James McGrory to relieve her of the business mail acceptance duties, as she already had eight hours work as dispatch clerk and mail processing clerk. Postmaster McGrory denied appellant's requests.

Appellant alleged that her stress was exacerbated by the employer's failure to respond to her requests for help. She was not given instructions on how to complete or file a (Form CA-2) and her requests to meet with an Employee Assistance Program (EAP) counselor were ignored, resulting in her transportation by ambulance to a hospital emergency room with a diagnosis of "stress reaction."

Appellant alleged that management retaliated against her for alleging internal fraud. Her application for a postmaster position was denied in November 2006. Supervisor Dorita Barnes told appellant that she sensed the district personnel manager's opinion had turned against her. Until appellant became involved with the fraud investigation, she "heard nothing but praise and promises." Once she became involved with the investigation, she could not get along with others and was not appropriate to advance to management. Management also retaliated by issuing a February 13, 2009 letter of warning for her failure to report to a training class.

The employing establishment allegedly scheduled business mail acceptance training for a two-week period during which appellant had a previous commitment. Supervisor Floyd became hostile when appellant inquired why training was scheduled when she was known to be unavailable. Appellant stated that the dates had been selected due to Supervisor Floyd's confusion as to the dates she was unavailable.

Appellant was required to perform the duties of a bulk mail clerk or technician, while holding the title of a mail processing clerk. As such, she was only entitled to receive an abbreviated training.

Supervisor Nearey allegedly denied appellant's request for union time on August 22, 2008. He informed her that the postmaster would return later and that she would be given union time then. Appellant alleged that she was never provided with this union time.

Appellant alleged that her supervisors failed to treat the employees with dignity and respect, but rather treated them in a derogatory, name-calling, negative or verbally abusive manner. Postmaster McGrory and Supervisor Floyd had a policy of refusing to speak to appellant. Appellant alleged that the postmaster yelled at a fellow supervisor, referring to him as "Fag" or "Moron." She contended that such references created a hostile work environment as she was openly known on the job as a lesbian. The record contains an October 1, 2008 settlement agreement reflecting that Postmaster McGrory and the supervisor were lifelong friends and the supervisor was never insulted by the stated nicknames. The parties agreed, however, that Postmaster McGrory would refrain from using those nicknames in the workplace. On August 31, 2007 appellant became frightened when Supervisor Floyd shouted at another employee that, if he opened his mouth one more time, he was "out the door."

Appellant alleged that her supervisors spoke to her abusively. After observing appellant writing postage due notices at the nixie desk on July 27, 2007, Supervisor Floyd asked in a loud and nasty tone: "What is SHE doing sitting there? I told you not to let any craft people sit there!" On August 23, 2007 Supervisor Floyd told appellant that she was receiving training because she was high strung and her mind got fixed on something and would not let go. When appellant attempted to discuss job-related problems with Postmaster McGrory, he called her names, such as "troublemaker" and "bullshitter," and told her that she was the source of all the problems at the employing establishment. On November 8, 2007 the postmaster informed her that he was receiving complaints from the customers as to her methods of verifying the mail. Appellant asked Postmaster McGrory if he would like her to release the mail without weighing it and to just accept the customer's claimed weights. At that point, Supervisor Floyd walked into the office and loudly stated, "[I]t [i]s not mail until WE say it [i]s mail."

Appellant alleged that management closely monitored her work, persistently asking her if she had performed routine functions. Her supervisors frequently interrupted her while she was performing one task, to perform another task, thereby making it difficult to complete her bulk mail acceptance job successfully. Supervisor Floyd interrupted appellant's telephone call with the Office of the Inspector General on February 11, 2009 and admonished her for failing to obtain permission to speak on the telephone.

In a September 11, 2008 letter to Postmaster McGrory, appellant stated that she left work on August 22, 2008 after experiencing a stressful situation in the performance of her assigned duties. On August 25, 2008 she informed Supervisor Floyd that she would attempt to return to work on August 27, 2008, at which time she intended to submit a CA-2 form for job-related stress. Upon appellant's return to work on August 27, 2008, Supervisor Floyd informed her that she had decided to relieve her of her duties in business mail acceptance "temporarily while issues regarding [their] equipment were resolved." She gave the CA-2 form to Supervisor Floyd without receiving a receipt. On September 10, 2008 Supervisor Floyd denied that she had received a CA-2 form from appellant on August 27, 2008.

In a letter dated November 6, 2008, the Office requested additional factual information from appellant, including specific employment conditions she believed caused or contributed to an emotional condition. It advised her to submit a physician's report containing a diagnosis and an opinion explaining how the diagnosed condition was causally related to the identified employment factors. On November 6, 2008 the Office asked the employing establishment to provide comments from a knowledgeable supervisor on the statements provided by appellant.

Appellant filed numerous grievances containing allegations identified in her complaint. In several cases, the parties entered into settlement agreements, which were not precedent setting and were not to be cited by either party. The record does not contain a final determination in appellant's favor relating to any of her grievances by Equal Employment Opportunity Commission or other.

On November 17, 2008 appellant reiterated her allegations and delineated her assigned duties. She stated that the bulk mail unit handled from $850,000.00 to $1,500,000.00 a year (more than 450,000.00 pieces a year) in bulk mail acceptance or 75 to 82 percent of the total revenue of the employing establishment. When appellant was on duty, she was the only clerk

working the assignment. She was responsible for accepting arriving parcel shipments, clearing letter carriers of accountable mail when they return and scanning timed scans for collection boxes and truck arrivals and departures. Appellant was the only clerk available when mail distribution was needed for carriers working their cases in the afternoon. These tasks conflicted with the bulk mail acceptance tasks. It was not uncommon for appellant to begin weighing bulk mail, be called to clear a carrier of accountable mail and keys, be called to throw off 48 tubs of mail, resume weighing bulk mail and get called away again to scan parcel select or collection boxes. In between these tasks, she was accountable for weighing and verifying bulk mail, processing postage statements and making sure postage was correct, completing the record-keeping for these statements and inputting them into the "Postal One" system and ensuring the postage has been paid before releasing the mail. Appellant stated, "Trying to do it without a scale that is backed by management or a computer dedicated to bulk mail, all while being pressured by supervisors to neglect bulk mail acceptance procedures and battling a customer who wants to take advantage of the situation with our scale, became overwhelming and ultimately took a physical toll in stress and anxiety."

Appellant submitted a November 15, 2008 statement from James F. Heller, a former coworker, who supported her claim that the bulk mail/dispatching clerk position was inefficiently structured making it difficult for the clerk to meet transportation schedules. The bulk mail technician was responsible for verifying and preparing a bulk mailing, which required weighing the entire mailing, then subtracting the weight of all containers and transporting equipment, in order to determine the actual net weight. Mr. Heller noted that larger post offices have high capacity scales that can weigh a ton or more, which makes weighing most mailings a one-step process. Simply push the rolling mail transportation stock on the scale, subtract the weight of containers (or in some cases, pallets) and mail trays and arrive at the net weight of the mail. The scale at employing establishment had a scale capable of weighing only about 300 pounds. Mr. Heller characterized it as "an antique balance scale that should be for sale at a flea market rather than being used to calculate mailings." As there was enough room to weigh only eight mail trays at a time, a large mailing took an inordinate amount of time. Containers had to be emptied, trays weighed and then mail trays had to be restacked in the containers before any calculations could be done. If the clerk's calculations did not agree with the mailer's on the first attempt, the whole process had to be repeated.

Mr. Heller stated that the bulk mail/dispatching clerk was required to multi-task, thereby increasing the potential for error. For the majority of the workday, the bulk mail/dispatch clerk was alone on the employing establishment workroom floor. While verifying bulk mailings and preparing all mail from the customer-service window and the street collections for dispatch to the Philadelphia Plant and the Philadelphia Bulk Mail Center, the clerk was also responsible for "clearing" the letter carriers upon their return to the employing establishment. The clerk was required to secure each carrier's route keys, return undelivered accountable mail (registered, certified, insured, etc.) to a safe receptacle and separate all collection mail for dispatching. There were 25 carrier routes in the employing establishment. Since the carriers had no guaranteed specific returning time, the bulk mail/dispatching clerk often had to leave a mailing in the midst of verification in order to clear a carrier, increasing the chances for error.

In a December 8, 2008 statement, Mary Ann Halen, supervisor of customer service, noted that on August 22, 2008 she received a telephone call from Jackie Erwin regarding an e-mail

inquiry from appellant, who requested instructions as to what to do with a bulk mailing she had received. Ms. Erwin stated that appellant was to verify and release the mailing. When Ms. Halen informed appellant that she was to verify and dispatch the mailing, appellant threw up her hand and stated, "that's it I'm out, I'm out on stress" and stormed out the door.

The employing establishment controverted appellant's claim. On December 10, 2008 Supervisor Floyd stated that there were no stressful aspects relating to overtime worked by appellant, which consisted of 41.44 hours during the previous year. There were no known conflicts between appellant and her coworkers or supervisors. Supervisor Floyd informed appellant on August 26, 2008, that she was being removed from the duties of the bulk mail clerk position until the employer could resolve issues she had relating to her bid position. Appellant was generally capable of performing the duties of the job, but was resistant to taking instructions from managers who had less time at the employing establishment than she did. Supervisor Floyd opined that there were many factors that could have impacted appellant's stress level, including nonwork-related illnesses and attending school while working full time.

By decision dated March 20, 2009, the Office denied appellant's claim on the grounds that she failed to establish any compensable factors of employment.

On April 2, 2009 appellant requested a telephonic hearing. She submitted copies of grievances and e-mails to the Office of the Inspector General reiterating her allegations. Appellant submitted additional documents addressing training schedules and other aspects of her claim.

In a March 3, 2009 "Grievant Statement Re: Harassment," appellant alleged that she worked in a toxic, hostile and abusive work climate where she faced harassment and sabotage at multiple levels. She stated that for six months management ignored her requests for help, such as a certified scale, a dedicated computer for conducting business or a support person in management willing to back her up with customers regarding bulk mail verification procedures. On February 20, 2009 Supervisor Floyd "crossed the line from undocumented actions of harassment to giving [appellant] a written letter of warning." Appellant stated that, "this adverse action followed three weeks of harassment which intensified after I found a six-month old postage statement for $2,325.00 that had not been inputted into Postal One in my absence. Once I inputted this statement on January 24, my world plunged into an even more bizarre hell."

In a February 24, 2009 letter, Supervisor Floyd reiterated that appellant left work on August 22, 2008 because she did not want to follow instructions she received from her supervisor. She indicated that appellant did not properly complete a CA-2 form until September 10, 2008.

At the July 7, 2009 hearing, appellant repeated her allegations of harassment and abuse by management. Her supervisors instructed her to give allowances to customers because the postal equipment was faulty. Appellant was ignored after she filed her stress claim and got no help from anybody.

In a September 28, 2009 decision, an Office hearing representative affirmed the March 20, 2009 decision, finding that appellant failed to establish a compensable factor 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 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 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 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.[3] Assignment of work is an administrative function of the employer.[4]

Where the claimant alleges compensable factors of employment, she must substantiate such allegations with probative and reliable evidence.[5] 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.[6] 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.[7]

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 she had established a compensable factor

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

[3] *Michael Thomas Plante*, 44 ECAB 510 (1993).

[4] *James W. Griffin*, 45 ECAB 774 (1994).

[5] *Joel Parker, Sr.*, 43 ECAB 220 (1991).

[6] *James W. Griffin*, *supra* note 4.

[7] *Donna Faye Cardwell*, 41 ECAB 730 (1990).

of employment. Therefore, the case is not in posture for decision, as the medical evidence was not considered by the Office.

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.[8] The Board finds that appellant has established compensable employment factors with regard to her regular duties.

The evidence of record establishes that, as a bulk mail dispatching clerk, appellant had various regular and specially assigned duties. For the majority of the workday, she worked alone verifying bulk mailings and preparing all mail from the customer-service window and the street collections for dispatch to the Philadelphia Plant and the Philadelphia Bulk Mail Center. Appellant was also responsible for "clearing" the letter carriers upon their return to the employing establishment. The tasks often overlapped and she would be required to move quickly from one job to another. Mr. Heller corroborated appellant's allegation that outdated and uncalculated scales created the probability of error in weighing the mailings and necessitated additional steps to the weighing process. Mr. DiDaniele's letter of complaint documented discrepancies between his company's certified weights and determination of required postage and those of appellant. He denied her ability to readily identify that her scale was off or properly weigh jobs to verify correct assignment of postage, noting a number of mistakes which resulted in appellant demanding extra postage, failing to process jobs which she has inspected or overcharging him. The Board notes that the employing establishment did not deny that appellant was required to work with inadequate equipment. The evidence also reflects that appellant worked 41.44 overturn hours during 2008. Supervisor Floyd stated that there were no stressful aspects relating to the overtime worked. She refuted appellant's allegation that she was overworked. Supervisor Floyd did not deny, however, that appellant was required to work overtime in order to complete her assigned duties. 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 a compensable employment factor under *Cutler*.

Appellant alleged that her supervisors created a toxic, hostile and abusive work environment by making degrading and demoralizing statements to her and to other employees in a loud and abusive voice. She stated that the postmaster addressed Supervisor Bruce Fagioli as "Fag" or "Moron" on a daily basis in her presence and contended that such a reference created a hostile work environment for her, especially since she is openly known on the job as a lesbian. The record reflects, however, that Postmaster McGrory and Supervisor Fagioli were lifelong friends and that Supervisor. Fagioli is not insulted by the stated nicknames. Although the postmaster's use of the nicknames may have been inappropriate and offensive to appellant, she has not established that a hostile environment was created by their use.

Appellant alleged that her supervisors demeaned her by ignoring her requests to meet with an EAP counselor; and humiliated her by refusing to speak to her. She claimed that she was

[8] *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).

harassed by both management and the customers for continuing to adhere to postal policies. In proceeding under the Act, the Board has held that an employee must establish a factual basis for his or her emotional condition claim and that mere perceptions of harassment or discrimination will not support an award of compensation.[9] The employing establishment denied these claims and appellant did not provide any evidence to corroborate a specific allegation of harassment or discrimination, as required. Thus, the Board finds that appellant has not established a compensable employment factor under the Act with respect to these allegations.

Appellant alleged that she had been repeatedly pressured to violate employing establishment procedures by accepting bulk mailings without verifying them and that the postmaster attempted to intimidate her into accepting the customers' paperwork as submitted. Under the circumstances of this case, however, the Board finds that her emotional reaction must be considered self-generated, as there is no evidentiary basis for her allegations.[10] The record reflects several occasions where appellant refused to obey an instruction to "verify and release" a mailing. There is no evidence, however, that she was advised to violate employing establishment procedures by accepting bulk mailings without verifying them.

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.[11] Appellant alleged that Supervisor Floyd used a loud and nasty tone after observing her at the "nixie" desk on July 27. 2007, asking, "What is SHE doing sitting there? I told you not to let any craft people sit there!" Supervisor Floyd reportedly told appellant that she was receiving training because she was high strung and her mind got fixed on something and would not let go. When appellant attempted to discuss any job-related problems with Postmaster McGrory, he allegedly called her names, such as "troublemaker" and "bullshitter," and told her that she was the source of all the problems at the employing establishment. When she estimated that the employing establishment had lost more than $60,000.00 in revenue due to its failure to verify mailer's claimed weights, the postmaster told her that she was the problem and that she had a poor attitude. When appellant asked if she was to release the mail without weighing it, Supervisor Floyd loudly stated, "[I]t [i]s not mail until WE say it [i]s mail." She has not submitted evidence to corroborate the utterance of these statements. Assuming arguendo, however, that the alleged 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.[12] The Board finds that appellant's emotional reaction to her supervisor's statements must be considered self-generated.[13]

[9] *Charles E. McAndrews*, 55 ECAB 711 (2004).

[10] *See David S. Lee*, 56 ECAB 602 (2005).

[11] *See Mary A. Sisneros*, 46 ECAB 155, 163-64 (1994); *David W. Shirey*, 42 ECAB 783 (1991).

[12] *See Denis M. Dupor*, 51 ECAB 482, 486 (2000).

[13] *See David S. Lee*, *supra* note 10.

Appellant alleged that her supervisors closely monitored her work, persistently asking her if she had performed routine functions; frequently interrupted her while she was performing one task, to perform another task, thereby making it difficult to complete her bulk mail acceptance job successfully; interrupted her telephone calls and admonished her for failing to obtain permission to speak on the telephone; improperly issued a letter of warning for her failure to report to a training class; improperly denied her request for union time and scheduled business mail acceptance training for a two-week period during which appellant had a previous commitment. These allegations relate to administrative or personnel matters, unrelated to her regular or specially assigned work duties and do not fall within the coverage of the Act.[14] 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.[15] 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.[16]

In this case, appellant has not submitted sufficient evidence to show that the employing establishment committed error or abuse with respect to these matters. She did not establish as factual that her request for union time was denied. Moreover, appellant did not represent that her supervisor denied her request, but rather that he deferred the request to the postmaster. She did not explain why she ultimately did not receive union time. Appellant did not dispute that she arrived late to the February 2, 2009 training session. Therefore, the issuance of a letter of warning was not unreasonable under the circumstances. Supervisor Floyd scheduled business mail acceptance training for a two-week period during which appellant had a previous commitment. Appellant acknowledged that the mix up was due to the supervisor's confusion as to her availability and that alternate training was scheduled. Therefore, in these scenarios, she has not shown error or abuse on the part of the employing establishment.

Appellant also alleged that management retaliated against her for an allegation she made against the employing establishment for internal fraud by denying her application for a postmaster position She has submitted no evidence to support her claim of retaliation. Therefore, appellant's feeling related to the denial of her application must be considered to be self-generated.[17] The Board notes that the assignment of work duties is an administrative function of the employer. As appellant has not shown error or abuse on the part of the employer in denying her application, she has not established a compensable factor of employment.[18]

[14] *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).

[15] *Id.*

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

[17] *Id.*

[18] *Id.*

Appellant submitted no evidence indicating that her supervisors acted abusively in monitoring her work, interrupting her while she was performing her job, interrupting her telephone calls or admonishing her for failing to obtain permission to speak on the telephone. Absent such a showing, the activities of the supervisors, as described by appellant, were not only reasonable, but appropriate. While appellant has indicated a dislike for her supervisors' management styles, she has not shown any evidence of abuse regarding their established policies. The Board finds that the supervisors' actions were reasonable and she has not provided evidence to the contrary. Consequently, appellant has not established a compensable factor of employment in this regard.

Appellant contended that the bulk mail acceptance operation was inefficient and the outdated, uncalculated equipment resulted in lost revenue for the employing establishment. She complained that she was required to perform the duties of a bulk mail clerk or technician, while holding the tile of a mail processing clerk. The Board has held, however, that an employee's dissatisfaction with perceived poor management constitutes frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable under the Act.[19]

The record reflects that appellant filed numerous grievances. However, the filing of an Equal Employment Opportunity complaint or grievance, by itself, does not establish that workplace harassment or unfair treatment occurred.[20] 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.[21] Appellant has failed to do so in this case. Moreover, although the record contains several settlement agreements relating to her grievances, there was no admission, or finding, of wrongdoing by the employing establishment.

In the present case, appellant has established employment factors with respect to her work duties. As she has established a compensable employment factor, the Office must base its decision on an analysis of the medical evidence. The Office found that 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.[22] After such further development as deemed necessary, the Office should issue an appropriate decision on this claim.

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. Appellant has established a

[19] *See Cyndia R. Harrill*, 55 ECAB 522 (2004); *Gregorio E. Conde*, 52 ECAB 410 (2001).

[20] *Beverly R. Jones*, 55 ECAB 411 (2004); *Linda J. Edwards-Delgado*, 55 ECAB 401 (2004); *Charles D. Edwards*, 55 ECAB 258 (2004).

[21] *See James E. Norris*, ECAB 93 (2000). *See also Michael Ewanichak*, 48 ECAB 354 (1997).

[22] *See Lorraine E. Schroeder*, 44 ECAB 323, 330 (1992).

compensable employment factor under *Cutler*. The case is remanded to the Office to analyze and develop the medical evidence, as it deems necessary and to determine whether she sustained an emotional condition due to the accepted employment factors.

ORDER

IT IS HEREBY ORDERED THAT the September 28, 2009 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to the Office for proceedings consistent with this decision of the Board, including the issuance of an appropriate decision.

Issued: October 1, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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