United States Department of Labor
Employees' Compensation Appeals Board

M.P., Appellant	)	
and	)	**Docket No. 09-2248**
	)	**Issued: September 27, 2010**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Carol Stream, IL, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 8, 2009 appellant timely appealed the August 6, 2009 merit decision of the Office of Workers' Compensation Programs, which denied her claim for an employment-related emotional condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

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

FACTUAL HISTORY

On January 12, 2005 appellant, then a 48-year-old mail processing clerk, filed a claim (Form CA-2) for employment-related stress commencing October 8, 2004.[1] She first realized

[1] Appellant had been working limited duty due to a previous injury.

her condition was employment related on December 22, 2004. Appellant claimed that on several occasions management verbally attacked her, which caused her to seek professional help. She was off work for approximately seven days in January 2005. Within a few weeks of filing her emotional condition claim, appellant filed another claim for injury to her head and right shoulder that occurred on January 27, 2005. She was using a restroom at work when a plastic toilet paper dispenser fell open, striking the right side of her head and her right shoulder.[2]

On February 17, 2005 the Office asked appellant to submit additional factual and medical information regarding her emotional condition. In response, appellant submitted a February 22, 2005 statement.

Appellant filed an Equal Employment Opportunity (EEO) complaint regarding a September 22, 2004 incident involving Anthony Teemer, a supervisor, who gave her a letter requesting updated medical information. She objected to the request because she had recently submitted information regarding her work restrictions. Mr. Teemer insisted that appellant follow instructions. Appellant noted that the signatures on the September 17, 2004 letter were not original, but had been stamped and she refused to accept the letter with the stamped signatures. Mr. Teemer retracted the letter and later reissued one with the appropriate signatures. He noted it was common practice to request medical information from limited-duty employees. Similar letters were issued to all limited-duty employees that required updated medical information. The EEO complaint was subsequently dismissed as untimely.[3]

As to the alleged verbal abuse, appellant stated that Gilbert Lopez, an injury compensation manager, called her a troublemaker on October 8, 2004. She had gone to the personnel office to see Connie Clay, the receptionist, about some benefit forms. Mr. Lopez approached appellant and asked if he could be of any assistance. Appellant told him she was waiting for Ms. Clay, and he replied that Ms. Clay might be at lunch. When she turned to look at the forms on display, Mr. Lopez asked if she had come to start trouble, because she was nothing but a troublemaker.

Appellant filed both a grievance and an EEO complaint regarding the October 8, 2004 incident with Mr. Lopez. A November 1, 2004 grievance status report noted that Mr. Lopez expressed a willingness to apologize in person if he had offended appellant; however, she refused the proposed settlement. The EEO complaint was dismissed by decision dated January 12, 2005.[4]

Mr. Lopez submitted an August 1, 2005 statement. He noted that the October 8, 2004 incident began when appellant knocked on the door to gain entrance to the Human Resources (HR) Department. Mr. Lopez let appellant in and jokingly asked her if she was there to start trouble. They both laughed and appellant responded that she was always starting trouble. Mr. Lopez stated that appellant then proceeded to her destination in the HR department. At no

[2] The Office denied the claim on April 21, 2005 because appellant failed to establish that the incident occurred as alleged.

[3] Appellant waited until November 10, 2004, more than 45 days, before filing her EEO complaint.

[4] The copy of the January 12, 2005 decision that appellant submitted only included pages 1 and 4.

point did he attack her. Mr. Lopez stated that he had not been confrontational, he had held many discussions with appellant and they were always in a "normal tone" and the course of their conversations had always been "business friendly."

In a February 22, 2005 statement, appellant alleged that on December 23, 2004 Cynthia Walker, a supervisor, exhibited aggressive behavior when she approached her demanding to know where appellant had been. On December 30, 2004 Ms. Walker had instructed Jimella Wright, appellant's immediate supervisor, to have a preliminary discussion with appellant regarding an unspecified incident.

Appellant filed a grievance and an EEO complaint alleging that Ms. Walker retaliated against her for having filed an EEO complaint against Mr. Teemer. In her grievance, she alleged that Ms. Walker approached her in a hostile manner on December 19, 2004 asking where she had been. Appellant explained her morning routine, of which Ms. Walker was already aware. She had been in the postage due unit retrieving mail for the nixie unit to work on that day. Ms. Walker told appellant that she could no longer work mail from the plastic tubs. Appellant replied that she had been working from the tubs for two years and asked Ms. Walker what her problem was today. She explained that the area where she worked was cold and noisy and that the tubs prevented the air from blowing on her. Appellant told Ms. Walker that she was being harassed only because she filed an EEO complaint against Mr. Teemer. Ms. Walker denied the accusation. Appellant again asked Ms. Walker what her problem was and she reportedly stated that another manager had been complaining about the tubs.

Appellant stated that Ms. Walker approached her again on December 22, 2004 regarding her use of tubs. She questioned Ms. Walker's authority to tell her how to work given that she was neither the unit supervisor nor her immediate supervisor. Ms. Walker claimed authority as a coordinator of every unit, which appellant described as some made-up title to justify the harassment. Appellant noted that a white female coworker in her unit was permitted to work with a gurney while appellant worked with tubs. However, the other woman was not asked to remove the gurney. Appellant claimed that Ms. Walker prohibited her from working in the best and most comfortable way. Ms. Walker allegedly told appellant there would be no walking that day. Appellant reiterated the allegations in her December 23, 2004 EEO complaint.

On August 9, 2005 Ms. Walker responded to appellant's allegations concerning the incidents of December 23 and 30, 2004. She explained that as a supervisor it was her responsibility to ensure that her unit took timely breaks and lunches. Appellant had been away from the unit for approximately one hour between her break and lunch. When questioned, she reportedly told Ms. Walker that her doctor advised her to take long walks. Ms. Walker noted that as an acting manager there were times when the scheduled manager either left or was in a meeting and she would be placed in charge. She indicated that she was unaware of any EEO claims by appellant at the time.

Appellant also alleged incidents that happened in February and March 2005 pertaining to her traumatic injury claim of January 27, 2005 when the plastic toilet paper dispenser opened striking her on the head and right shoulder. She noted that just a few months prior she had a biopsy on the right side of her head, which resulted in a diagnosis of discoid lupus erythematosus

(DLE).[5] Appellant explained that, after the January 27, 2005 incident, she experienced headaches and her physician recommended a magnetic resonance imaging scan and advised that she not return to work until February 16, 2005.[6]

Appellant stated that the employing establishment called her at home on February 3, 2005 and advised her to report for a fitness-for-duty examination the following day.[7] Dr. Eva T. Ostrowski, a Board-certified internist, examined appellant on February 4, 2005. She noted complaints of headaches and right shoulder pain from getting hit by a plastic toilet paper cover. Appellant advised Dr. Ostrowski that she was unable to do anything due to headaches and depression. Dr. Ostrowski diagnosed nonspecific headaches unrelated to the recently reported trauma and advised that appellant could return to work in her previous position. The employing establishment provided a job offer based on Dr. Ostrowski's findings. However, appellant contacted her personal physician who recommended that she not return to work until February 15, 2005. She alleged that Dr. Ostrowski told her that due to her conditions and the situations she was working under, she should retire on disability.

Appellant received another call at home on February 14, 2005 requesting a meeting the following morning in reference to her January 27, 2005 injury claim. She initially agreed to the meeting but, after contacting a union steward, she cancelled. The steward informed appellant that she did not have to report to work on an unscheduled day. Mr. Teemer allegedly called appellant the following morning insisting that she attend the meeting. Appellant told Mr. Teemer that she would not cancel any appointments or be intimidated or harassed on her unscheduled days off. When she returned to work on February 16, 2005 no discussion was held about her injury. Appellant contended that this was another form of harassment.

On March 4, 2005 Ms. Walker offered appellant a position that involved walking around the facility checking mail and inputting data into a laptop computer. She told appellant that she considered her for the position based on her demonstrated computer skills. Appellant rejected the job offer because she sensed something "fishy" about it.[8] Later that day she was questioned by a postal inspector and a contract fraud analyst. Together with a union steward, appellant reviewed surveillance footage of her coming and going on certain days. She alleged that the postal inspector tried to intimidate her.

---

[5] Appellant submitted a copy of the October 4, 2004 pathology report which confirmed the diagnosis of DLE.

[6] Appellant submitted for the record a February 11, 2005 prescription pad note from Dr. Jacob Salomon, a Board-certified surgeon, who excused her from work through February 16, 2005. Dr. Salomon subsequently provided disability certificates for February 18 and 19 and March 5 and 6, 2005 because of headaches and right shoulder pain from the January 27, 2005 injury.

[7] The employing establishment notified appellant by letter dated February 3, 2005 explaining that the scheduled examination was in reference to the job injury she sustained on January 27, 2005 and was necessary in order to determine her ability to perform her employment duties.

[8] In her August 9, 2005 statement, Ms. Walker indicated that it was her responsibility to extend job offers to all tour 2 injured employees. On or about March 4, 2005 she offered appellant a position in the data conversion department, which involved using a handheld computer and entering data. Ms. Walker stated that the position was within appellant's medical restrictions but she nonetheless rejected it, as was the case with previous job offers. She indicated that the employing establishment accommodated appellant's medical restrictions.

Effective March 7, 2005 the employing establishment placed appellant on off-duty status without pay for allegedly engaging in activities inconsistent with her claim of total disability during the months of January and February 2005. The Postal Inspection Service prepared a March 18, 2005 investigative memorandum that included surveillance of appellant on six days between February 7 and 21, 2005, as well as information obtained during her March 4, 2005 interview.

On April 6, 2005 the employer issued appellant a notice of removal for engaging in activities inconsistent with her claim of total disability. The effective date of the removal was May 14, 2005.

In a February 27, 2005 report, Dr. Thomas D. MacRoy, Ph.D., a clinical psychologist, diagnosed major depression. He noted that appellant had reported that it was not her job but rather the negative interactions with supervisors that she believed contributed to her problems.

In a decision dated October 21, 2005, the Office denied appellant's emotional condition claim, finding that she did not establish any compensable employment factors.

Appellant timely requested an oral hearing, which was held on May 18, 2009. At the hearing, she submitted reports from Dr. MacRoy dated December 22, 2004 and May 17, 2009. Posthearing appellant submitted a May 27, 2009 statement from a coworker, Cassandra Ellis, who witnessed "verbal, harassment and discrimination by management" against appellant in 2004 and 2005. Ms. Ellis stated that management verbally attacked appellant whenever they would come in contact with her, including when appellant was walking about getting mail for work, when she was on breaks or at lunch, and even while she was in the restroom. She also stated that managers would use the public address (PA) system to contact appellant when they knew she was either at one place or another and that appellant was asked where she had been or where she was going. Ms. Ellis stated that she witnessed management take plastic tubs from appellant that she used to accommodate her injury. She noted that management put appellant in emergency placement status.

In a June 16, 2009 letter to the hearing representative, appellant provided a timeline of events that caused or contributed to her claimed emotional condition. She reiterated the incidents of September 22, October 8, 2004, and February 4, 14 and 15, 2005. Appellant noted an October 14, 2004 incident when Ms. Walker and Mr. Teemer allegedly used the PA system to locate her while knowing that she was either on a break, at lunch or in the restroom. On February 17, 2005 Mr. Lopez and Mary Hughes, an injury compensation specialist, allegedly questioned her about her work abilities in a "hostile tone." Appellant also mentioned a meeting in a conference room when she was reportedly dismissed from the employing establishment. Ms. Walker and another manager, Melvin Dean, allegedly walked in the conference room and started laughing aloud as they approached appellant.

By decision dated August 6, 2009, an Office hearing representative affirmed the October 21, 2005 decision. The hearing representative found that appellant did not establish any compensable employment factors.

LEGAL PRECEDENT

To establish that she sustained an emotional condition causally related to factors of her federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that her emotional condition is causally related to the identified compensable employment factors.[9]

Workers' compensation law does not apply to each and every injury or illness that is somehow related to one's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the purview of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable.[10] Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or hold a particular position.[11] Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting her allegations with probative and reliable evidence.[12] When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter, the Office must base its decision on an analysis of the medical evidence.[13]

ANALYSIS

Appellant did not attribute her emotional condition to the performance of her regular or specially assigned duties under *Cutler*. Rather, she contends that she was harassed by Mr. Lopez and Mr. Teemer because she had filed several workers' compensation claims. Appellant claimed to have been verbally attacked by Mr. Lopez on October 8, 2004. For harassment to give rise to a compensable disability there must be evidence that harassment occurred.[14] The mere perception of harassment is not compensable.[15] Allegations of harassment must be substantiated by reliable and probative evidence.[16] Verbal abuse or threats of physical violence in the

[9] *See Kathleen D. Walker*, 42 ECAB 603 (1991).

[10] *Pamela D. Casey*, 57 ECAB 260, 263 (2005).

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

[12] *Kathleen D. Walker*, *supra* note 9.

[13] *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992). Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

[14] *Donna J. DiBernardo*, 47 ECAB 700, 703 (1996).

[15] *Id.*

[16] *Joel Parker Sr.*, 43 ECAB 220, 225 (1991).

workplace are compensable under certain circumstances.[17] This, however, does not imply that every ostensibly abusive or threatening statement uttered in the workplace will give rise to coverage under the Federal Employees' Compensation Act.[18] Verbal altercations and difficult relationships with supervisors, when sufficiently detailed and supported by the record, may constitute compensable factors of employment.[19] For appellant to prevail on her claim, she must support her allegations with probative and reliable evidence.[20]

Appellant did not provide specific details about alleged harassment or verbal abuse. She variously described being approached in a "hostile manner" and being addressed in a "hostile tone." Appellant described Ms. Walker as exhibiting "aggressive behavior" and being "fishy" with respect to a March 4, 2005 limited-duty job offer. On another unspecified occasion, Ms. Walker and Mr. Dean allegedly laughed aloud as they approached appellant in a conference room, prior to her dismissal. Mr. Lopez was purportedly abusive on October 8, 2004 when he asked appellant if she was in the HR department to start trouble. According to his August 1, 2005 statement, he and appellant both laughed at his remark and she replied that she was always starting trouble. Mr. Lopez noted that he was not being confrontational and had not attacked appellant that day. He also indicated that his many discussions with appellant were conducted in a "normal tone" and had always been "business friendly." The record further indicated that Mr. Lopez offered to personally apologize if his remarks offended appellant; an offer she reportedly declined. Under the circumstance, asking appellant if she was in the HR department to start trouble or calling her a troublemaker does not rise to compensable verbal abuse. The Board further finds that appellant has not substantiated her various allegations of harassment. None of the above-noted incidents are sufficiently descriptive to determine whether workplace harassment did in fact occur.

Appellant took exception to Mr. Teemer's September 22, 2004 request that she provide updated medical evidence regarding her work restrictions. She objected to the request because she had reportedly submitted similar information just a few days prior. Appellant also accused Mr. Lopez of falsifying information because the September 17, 2004 letter Mr. Teemer had given her included stamped rather than original signatures. Mr. Teemer subsequently provided her with a similar document bearing actual signatures.

The employing establishment's September 22, 2004 request for additional medical information constitutes an administrative matter. An employee's emotional reaction to administrative or personnel matters generally falls outside the Act's scope.[21] However, to the extent the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be

[17] *Fred Faber*, 52 ECAB 107, 109 (2000).

[18] *Id.*

[19] *Marguerite J. Toland*, 52 ECAB 294, 298 (2001).

[20] *See Kathleen D. Walker*, *supra* note 9.

[21] *Andrew J. Sheppard*, 53 ECAB 170, 173 (2001).

considered a compensable employment factor.[22] Appellant has not presented sufficient evidence to establish error or abuse. Based on information obtained during the EEO complaint process, it was a common practice to request medical documentation from limited-duty employees. Similar letters were issued to all limited-duty employees that required updated medical information. Appellant's preference for documents bearing original signatures does not establish any wrongdoing on Mr. Lopez's part. She has not presented any evidence that the stamped signatures were unauthorized. Furthermore, Mr. Teemer reportedly cured any perceived defect in the September 17, 2004 letter by obtaining original signatures and then reissuing the letter. Accordingly, the Board finds that the September 22, 2004 incident is not compensable.

On October 14, 2004 Mr. Teemer and Ms. Walker reportedly used the PA system to try and locate appellant. Ms. Ellis provided some information to this incident, although she did not specify the exact date. Appellant claimed that it was unnecessary to use the PA system because her managers knew she was either on break, at lunch or in the restroom. Monitoring work is an administrative function of a supervisor.[23] The manner in which a supervisor exercises his or her discretion falls outside the coverage of the Act. This principle recognizes that supervisors must be allowed to perform their duties, and at times employees will disagree with their supervisor's actions, but mere dislike or disagreement with certain supervisory actions will not be compensable absent proof of error or abuse on the part of the supervisor.[24] Appellant essentially argued that using the PA system was unnecessary because Mr. Teemer or Ms. Wheeler should have surmised that she was at one of three possible locations. Her contention and the witness statement are not evidence of error or abuse on the part of either Mr. Teemer or Ms. Walker. Consequently, the October 14, 2004 incident is not compensable.

Appellant also took exception to two encounters with Ms. Walker in December 2004. The first incident occurred on December 19, 2004 when Ms. Walker reportedly asked appellant where she had been earlier in the day and also instructed appellant to discontinue using plastic tubs. The second incident occurred on December 22, 2004 when Ms. Walker again approached appellant regarding her use of plastic tubs. Appellant claimed that the tubs prevented air from blowing on her and that using them was the best and most comfortable way for her to work since injuring herself in 2002. Again, monitoring work is an administrative function of a supervisor.[25] In an August 9, 2005 statement, Ms. Walker explained that as a supervisor it was her responsibility to ensure that her unit took timely breaks and lunches. As to the use of plastic tubs, appellant implied that it was a necessary accommodation for a prior work-related injury. However, she did not provide any medical documentation to establish that her work restrictions included limited exposure to blowing air. An employee's frustration from not being permitted to work in a particular environment or hold a particular position is generally not compensable.[26] Appellant has not provided evidence of error or abuse regarding the December 19 and 22, 2004

[22] *See Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

[23] *Beverly R. Jones*, 55 ECAB 411, 416 (2004); *Charles D. Edwards*, 55 ECAB 258, 270 (2004).

[24] *Linda J. Edwards-Delgado*, 55 ECAB 401, 405 (2004).

[25] *Beverly R. Jones*, *supra* note 23.

[26] *Lillian Cutler*, *supra* note 11.

incidents with Ms. Walker. While she filed both a grievance and an EEO complaint regarding these incidents, the final disposition of those complaints is not of record. The mere fact that an employee filed an EEO complaint does not establish error or abuse on the part of her employer.[27] Based on the evidence of record, the Board finds that the December 19 and 22, 2004 incidents involving Ms. Walker are not compensable.

Appellant also alleged that, on December 30, 2004, Ms. Walker instructed her immediate supervisor, Ms. Wright, to have a preliminary discussion with appellant regarding an unspecified incident. She did not provide any further information about this particular incident. Thus, the Board finds that the December 30, 2004 alleged incident has not been factually established.

The remaining incidents are primarily related to circumstances stemming from appellant's alleged traumatic injury on January 27, 2005, when a defective toilet paper dispenser opened and struck the right side of her head and her right shoulder. The Office ultimately denied this claim.

On February 3, 2005 appellant received a call at home requesting that she report to the employing establishment's medical unit the following day. She complied with the request. Dr. Ostrowski examined her on February 4, 2005 and found appellant fit to resume her previous duties. Appellant, however, remained off work in accordance with her personal physician's recommendation. She did not specifically challenge the February 3, 2005 examination request. Appellant's only objection was that Dr. Ostrowski allegedly told her that she should go ahead and retire on disability because nothing was going to change at work. The Board finds no substantiation for the remarks appellant attributed to Dr. Ostrowski during the February 4, 2005 examination. Accordingly, this allegation has not been factually established.

The next incidents occurred on February 14, 15 and 16, 2005. Appellant stated that she received a call at home on February 14, 2005 requesting that she meet with Mr. Dean at work the following day to discuss her January 27, 2005 injury. She originally agreed to the February 15, 2005 meeting, but later called and left a message cancelling the appointment. Appellant did so on the advice of a union steward who informed her that her unscheduled days did not belong to the employing establishment. The following morning Mr. Teemer called appellant at her home, insisting that she meet with Mr. Dean that morning. Appellant apparently did not comply. When she returned to work on February 16, 2005 there were no discussions that day with either Mr. Dean or Mr. Teemer concerning her January 27, 2005 injury claim. Appellant considered the lack of discussions a form of harassment.

The February 14 and 15, 2005 requests to meet with Mr. Dean regarding appellant's January 27, 2005 injury are administrative matters. As such, these incidents are not compensable absent evidence of error or abuse on the part of the employing establishment. Appellant objected to meeting on February 15, 2005 only after she had been advised that she did not have to report for work on a day she was not otherwise scheduled to work. She has not demonstrated any error

[27] Grievances and EEO complaints do not establish that workplace harassment or unfair treatment occurred. *Charles D. Edwards*, 55 ECAB 258, 266 (2004). Furthermore, absent an admission of fault, a settlement agreement does not establish error or abuse on the part of the employing establishment. *Kim Nguyen*, 53 ECAB 127, 128 (2001).

or abuse on the part of the employing establishment in attempting to schedule a meeting to discuss her January 27, 2005 claim of injury. Appellant's claim of being harassed on February 16, 2005 is unsubstantiated. There is no evidence that anything transpired that day between appellant and either Mr. Teemer or Mr. Dean. By itself, the mere fact that no meetings were held that day does not establish harassment.

Two other incidents occurred on March 4, 2005. Ms. Walker offered appellant another limited-duty assignment, which appellant denied because it was "fishy." It is not clear what her specific objections were or how the March 4, 2005 offer caused or contributed to her claimed emotional condition. Ms. Walker explained that it was her responsibility to extend job offers to all tour 2 injured employees. She indicated that the March 4, 2005 position offered appellant in the data conversion department was within her medical restrictions, but appellant rejected the offer. Ms. Walker further indicated that the employer continued to accommodate appellant's medical restrictions. The March 4, 2005 job offer was an administrative matter, and merely characterizing it as "fishy" does not demonstrate error or abuse on the part of her employer.

The second March 4, 2005 incident involved an interview by a postal inspector and contract fraud analyst regarding appellant's January 27, 2005 injury claim. Appellant was shown surveillance footage from February 2005. She claimed that the postal inspector tried to intimidate her. Investigations that do not involve an employee's regular or specially assigned duties are not compensable absent a showing of error or abuse on the part of the employing establishment.[28] Appellant's vague and unsubstantiated allegation of intimidation is not evidence of error or abuse. Consequently, the March 4, 2005 investigative interview is not compensable.

The March 7, 2005 suspension without pay and the April 6, 2005 notice of removal constitute disciplinary actions, which are administrative in nature.[29] Reprimands, counseling sessions and other disciplinary actions are administrative matters that are not covered under the Act unless there is evidence of error or abuse.[30] Appellant has not established error or abuse with respect to either of the above-noted disciplinary actions.

Because appellant failed to establish a compensable factor of employment, the Office properly denied her claim.[31] The Board need not review the medical evidence.

CONCLUSION

Appellant has not established that she sustained an emotional condition in the performance of duty.

[28] *Beverly A. Spencer*, 55 ECAB 501, 512 (2004).

[29] *Charles D. Edwards*, *supra* note 27.

[30] *Andrew Wolfgang-Masters*, 56 ECAB 411, 414 n.7 (2005).

[31] *Garry M. Carlo*, *supra* note 13.

ORDER

IT IS HEREBY ORDERED THAT the August 6, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 27, 2010
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