

an undated 14 page statement on September 8, 2009, her allegations had been addressed in a prior claim. The Board noted that the 14 page statement, while referring to some incidents that had been discussed in the prior claim, included additional factual allegations regarding incidents from July 2007 to April 2008. Appellant's representative submitted a September 1, 2009 statement that provided additional allegations. The case was remanded to OWCP to issue a decision addressing the allegations.

Appellant described incidents with her supervisor, Jasveer Brar, commencing July 30, 2007. She alleged, that the supervisor became angry with her when she returned from vacation on July 30, 2007, told her to use an employing establishment vehicle for physician's visits on August 1, 2007, responded angrily when she requested assistance on August 28, 2007 and received a letter of warning on September 1, 2007. According to appellant, she often felt "pressured to deliver a volume of mail that was impossible to deliver in the time allowed." She stated that, whenever she could not perform the work in the time allowed, Mr. Brar became even more argumentative. Appellant stated that he became angry when she requested assistance on her route. In a March 6, 2008 incident, she alleged that Mr. Brar stated that he knew about her stress condition, advised her to look for another job and told her she could not talk to a union steward until she received permission. According to appellant, there was a meeting regarding an Equal Employment Opportunity (EEO) complaint claim and an agreement was signed.

In a letter dated September 1, 2009, appellant's representative stated that appellant had a difficult relationship with her supervisor and suffered verbal abuse. The representative also stated that she was subject to stress from overwork and trying to meet her position requirements.

With respect to medical evidence, the record contains an October 2, 2009 report from Dr. S. Machara, a psychiatrist, who diagnosed post-traumatic stress disorder, which interfered with appellant's ability to interact with managers, coworkers and the general public.

By decision dated May 9, 2011, OWCP reviewed the merits of the claim. It found that no compensable work factors were substantiated and the claim for compensation was denied.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by factors of her federal employment.² This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.³

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 illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind

² *Pamela R. Rice*, 38 ECAB 838 (1987).

³ *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position or secure a promotion. On the other hand, where 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 FECA.⁴

A reaction to an administrative or personnel matter is generally not covered as it is not related to the performance of regular or specially assigned duties.⁵ Nevertheless, if the evidence demonstrates that the employing establishment erred, acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.⁶

ANALYSIS

Appellant alleged a difficult relationship with her supervisor and she referred to specific instances when she felt that he was angry with her. To the extent that she alleges she was subject to verbal abuse, there is not sufficient evidence to establish her allegations of verbal abuse as factual. While the Board has recognized that a compensable factor may be established based on verbal abuse,⁷ not every statement that is uttered in the workplace is sufficient to give rise to a compensable work factor.⁸ Even if the supervisor spoke in a raised voice, this does not in itself establish verbal abuse.⁹ Although appellant may have felt that the supervisor looked at her in an intimidating manner and spoke in a harsh tone, there is insufficient evidence to establish the allegations as compensable work factors. She indicated that there was a settlement of an EEO complaint, but the settlement is not of record and there is no evidence of any admission of verbal abuse or other evidence from any witness that would support a compensable work factor.

As noted, an administrative or personnel matter may be a compensable factor if there is evidence of error or abuse. Appellant has referred to a letter of warning and stated that she was told to use an employing establishment motor vehicle to attend a medical appointment. There was no evidence presented of error or abuse in this regard. The statement from appellant indicated that she did use an employing establishment motor vehicle and there is no probative evidence that she received instructions that were erroneous or abusive.

Appellant also referred to overwork generally and an inability to complete her work assignments in the time allotted. To support such a claim, she must provide a detailed allegation

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

⁵ *See Brian H. Derrick*, 51 ECAB 417, 421 (2000).

⁶ *Margreate Lublin*, 44 ECAB 945, 956 (1993).

⁷ *David W. Shirey*, 42 ECAB 783 (1991).

⁸ *David C. Lindsey, Jr.*, 56 ECAB 263 (2005).

⁹ *Beverly R. Jones*, 55 ECAB 411 (2005); *Karen K. Levene*, 54 ECAB 671 (2003).

and supporting evidence.¹⁰ Again, appellant did not submit adequate supporting evidence. Her statement does not provide detailed information about her work duties, how often she requested and received assistance or provide supporting evidence of a claim based on an inability to complete work assignments.

The Board accordingly finds that appellant has not alleged and substantiated a compensable work factor with respect to her claim. There is insufficient evidence to establish verbal abuse, administrative error, overwork or other compensable factors. Since appellant has not established a compensable work factor, the Board will not address the medical evidence.¹¹

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

On appeal, appellant's representative argues that OWCP did not comply with the Board's order. But the Board's order remanding the case directed OWCP to address appellant's new allegations. The May 9, 2011 OWCP decision reviewed and made findings on the allegations presented. For the reasons noted, the Board finds that the allegations and the accompanying evidence do not establish a compensable work factor.

CONCLUSION

The Board finds that appellant has not established an emotional or physical injury causally related to a compensable work factor.

¹⁰ See *Sherry L. McFall*, 51 ECAB 436 (2000).

¹¹ See *Margaret S. Krzycki*, 43 ECAB 496 (1992).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 9, 2011 is affirmed.

Issued: December 28, 2011
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