

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

S.R., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Herrin, IL, Employer**

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**Docket No. 12-82
Issued: June 7, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 18, 2011 appellant filed a timely appeal from a September 14, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 causally related to compensable work factors.

FACTUAL HISTORY

On October 14, 2010 appellant, then a 50-year-old rural carrier, filed an occupational claim (Form CA-2) alleging that she sustained, stress, anxiety and pain attacks as a result of verbal and mental abuse from coworkers. The reverse of the claim form noted she stopped work on October 1, 2010.

¹ 5 U.S.C. § 8101 *et seq.*

Appellant submitted an October 25, 2010 statement that, in her years of service at the employing establishment, there had been screaming, yelling and cursing. She referred to a coworker who retired early to get away from bullying and harassment. According to appellant, she had an approved annual leave request in July 2003 but had to find a carrier at another work site to substitute for her because the other carriers refused. She stated that she tried to fit in with the other carriers but “I was never good enough for them,” and she was ignored and considered an outcast. Appellant referred to an incident when she had identified a coworker as making comments about a new employee. According to her, on September 16, 2010, a coworker screamed at her on the telephone and called her a liar. Appellant also referenced a September 17, 2010 incident when another coworker screamed at her and called her a backstabber. She stated that she experienced anxiety attacks.

With respect to witness statements, Ms. Odom, a coworker, submitted an October 27, 2010 statement that there was abuse and criticism at work. Marylynn Perschbacher, another coworker, submitted an undated statement noting that she had been harassed at work. Janet Wood, a supervisor, submitted a January 12, 2011 statement that appellant wore a headset while at work and could not hear if people were whispering about her. She stated that she did not know about any telephone calls or hear anyone screaming at appellant. Ms. Wood stated that some of the carriers spoke loudly when they were agitated.

In a statement dated February 8, 2011, Derick Lenear, a supervisor, stated that he did not know of the specifics regarding appellant’s relationship with other carriers. He did not witness or was aware of any alleged verbal abuse toward appellant.

In a decision dated March 7, 2011, OWCP denied the claim for compensation. It found that no compensable work factors had been established.

Appellant requested an oral hearing before an OWCP hearing representative, which was held on July 13, 2011. She submitted a March 28, 2011 statement that reiterated her allegations that she was yelled at by coworkers, dating the incidents to September 17 and 18, 2010. Appellant filed an Equal Employment Opportunity (EEO) complaint and on March 15, 2011 she “filed a complaint of forgery” with employing establishment inspectors.² In a March 30, 2011 note, Ms. Odom stated that on September 18, 2010 she heard Sheri Rogers, a coworker, yelling at appellant. She stated that, when appellant attempted to speak, another coworker told her to shut up. Appellant submitted statements from family members and a March 31, 2011 note from a former coworker who felt he was subject to daily harassment and abuse. Ms. Perschbacher, a coworker, addressed allegations of harassment she had witnessed; but did not refer to instances involving appellant.

By decision dated September 14, 2011, the hearing representative affirmed the March 7, 2011 decision. The hearing representative found appellant had not established a compensable work factor.

² The record contains an e-mail dated March 15, 2011 from appellant alleging that an “accountable clerk” signed appellant’s name on an employing establishment form.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment.³ This burden includes the submission of detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.⁴

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 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 his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.⁵

With respect to a claim based on harassment or discrimination, the Board has held that actions of an employee's supervisors or coworkers which the employee characterizes as harassment may constitute a factor of employment giving rise to a compensable disability under FECA. A claimant must, however, establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.⁶ Unsubstantiated allegations of harassment are not determinative of whether or not harassment occurred.⁷

ANALYSIS

Appellant's primary allegation in this case is that she was subject to verbal abuse and harassment by coworkers. The Board has addressed the factors in determining whether interactions between employees will give rise to coverage under FECA where harassment is alleged through verbal altercations or difficult relationships between employees.⁸ The difficulty in such claims is the subjective nature of a claimant's perceptions to his or her work environment. To support a claim for compensation, the claimant must specifically delineate those factors or incidents to which the emotional condition is attributed and submit supporting factual evidence verifying that the implicated work situations or incidents occurred as alleged. Vague or general allegations of perceived harassment, abuse or difficulty arising in the

³ *Pamela R. Rice*, 38 ECAB 838 (1987).

⁴ *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

⁵ *Lillian Cutler*, 28 ECAB 125 (1976).

⁶ *Gregory N. Waite*, 46 ECAB 662 (1995); *Barbara J. Nicholson*, 45 ECAB 803 (1994).

⁷ *Helen P. Allen*, 47 ECAB 141 (1995).

⁸ *E.H.*, Docket No. 11-798 (issued March 22, 2012); *Paul Trotman-Hall*, 58 ECAB 189 (2006).

employment are not sufficient to give rise to compensability under FECA.⁹ In reviewing the evidence of record, appellant has not submitted sufficient evidence to establish as a compensable work factor any instance of verbal abuse.

Appellant generally alleged that she felt she did not fit in with some of her coworkers. The specific allegations discussed were incidents in September 2010 when she claimed she was yelled at over the telephone by a coworker, and on the following day another coworker yelled at her, while a third told her to shut up when she tried to speak. A brief witness statement reported that she heard a coworker yelling at appellant, and another told her to shut up, without providing further detail regarding these incidents. Witness accounts that do not provide a detailed description of the specific statements made are of limited probative value.¹⁰ Moreover, the Board has held that being spoken to in a raised or harsh voice does not of itself warrant a finding of verbal abuse.¹¹

The evidence of record is not sufficient to establish a compensable work factor based on verbal abuse or harassment. Several of the witness statements provided only the coworker's general perceptions of harassment or abuse at work, without providing adequate detail to support appellant's specific allegations. While appellant indicated that she had filed an EEO complaint, there was no supporting evidence or any findings made with respect to a claim of harassment or verbal abuse.¹² The evidence is not of sufficient probative value to establish a compensable work factor as to verbal abuse or harassment.

Appellant also made an allegation of forgery by a coworker. There is little evidence of record as to specific details other than appellant stating that her name was improperly signed on an employing establishment form. The nature of the form or its function at the employing establishment are not clearly addressed and there is no additional relevant evidence as to the circumstances surrounding the allegation. Appellant referred to filing a complaint with inspectors but there are no findings or other probative evidence establishing a compensable work factor in this regard.

The Board finds that appellant has not substantiated a compensable work factor. Since appellant has not established a compensable work factor, the Board need not address the medical evidence.¹³

On appeal, appellant noted that she filed an EEO complaint and sent a letter to employing establishment inspectors, and that no one looked into the forgery of her name. It is appellant's burden of proof to establish her claim for compensation and the Board can review only the

⁹ *Id.*

¹⁰ *See Joe M. Hagewood*, 56 ECAB 479 (2005); *Donney T. Drennon-Gala*, 56 ECAB 469 (2005).

¹¹ *T.G.*, 58 ECAB 189 (2006).

¹² The filing of an EEO complaint does not establish harassment or unfair treatment occurred. *Charles D. Edwards*, 55 ECAB 258, 266 (2004).

¹³ *See Margaret S. Krzycki*, 43 ECAB 496 (1992). If appellant does establish a compensable work factor, then she must submit rationalized medical evidence on causal relationship between the work factor and a diagnosed condition. *See Beverly R. Jones*, 55 ECAB 411 (2004).

evidence that is before OWCP at the time of its final decision.¹⁴ The Board has reviewed the evidence of record, including the witness statements, and for the reasons stated finds that she has not established a compensable work factor.

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.

CONCLUSION

The Board finds that appellant has not established an emotional condition causally related to compensable work factors.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 14, 2011 is affirmed.

Issued: June 7, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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

¹⁴ 20 C.F.R. § 501.2(c)(1).