United States Department of Labor
Employees' Compensation Appeals Board

R.M., Appellant	)	
and	)	**Docket No. 11-704**
	)	**Issued: September 5, 2012**
NATIONAL TRANSPORTATION SAFETY BOARD, Washington, DC, Employer	)	

Appearances:
Robert A. Taylor, Jr., Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 25, 2011 appellant, through his attorney, filed a timely appeal from an October 26, 2010 decision of the Office of Workers' Compensation Programs.[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] Appellant requested that the appeal in this case be consolidated with an appeal filed on behalf of him in OWCP No. xxxxxx468. The Board has no record of any appeal filed regarding this case number. A review of the record suggests that appellant sent the appeal form to OWCP; that it was never filed with the Board; and that he requested that OWCP act on its request for reconsideration in lieu of an appeal.

[2] 5 U.S.C. § 8101 *et seq.*

[3] On appeal, appellant requested an oral argument. The Clerk of the Board mailed a letter to appellant to confirm a continuing desire for an oral argument in Washington, DC. No written confirmation was received; thus the Board has decided the appeal on the record.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an emotional condition in the performance of duty.

On appeal, appellant, through his attorney, contends that an OWCP hearing representative erred in refusing to rule on whether the accepted on-the-job physical injuries contributed to appellant's emotional condition. Appellant also argued, *inter alia,* that the hearing representative erred when she failed to find numerous alleged employment factors stressful, erred in finding that a lack of a clear chain of command was acceptable and erred in applying too stringent a standard of proof.

FACTUAL HISTORY

On October 24, 2005 appellant, then a 56-year-old former financial management specialist, filed an occupational disease claim alleging that, as a result of his federal duties, he suffered from depression and an anxiety disorder or an aggravation of depression and anxiety disorder. In an attached statement, he stated that he began to experience anxiety and depression in approximately 2000. Although appellant admitted that some of his anxiety and depression was related to his chronic obstructive pulmonary disease, he alleged that most of it was exacerbated by work-related stress that was the result of: (1) stress of pain and suffering stemming from on-the-job injuries; and (2) stress of performing his duties.

With regard to his on-the-job injuries, appellant noted that he had two work-related injuries that caused him to suffer through constant pain while attempting to do his job and that this caused him to be depressed and anxious. He noted that these injuries included an injury on May 24, 2004 when he aggravated symptoms of his preexisting L4-5 herniated disc syndrome while moving old filing cabinets. Appellant also noted that on July 28, 2004, while moving files and other materials, he sustained a further aggravation of his preexisting L4-5 herniated disc syndrome and a severe hamstring tear. He noted that both of these claims were initially denied but were being reconsidered.

With regard to appellant's claim that he suffered from stress from performing his federal duties, he listed different aspects of his work which he contended caused stress and, consequently, his emotional condition. First, he contended that he was under stress due to his work on high visibility projects. Specifically, appellant noted that, in the performance of his duties, he dealt with all levels of employees. He noted that, following the discovery of embezzlement by two employees, he was asked to bring back financial accountability through audits and new credit card programs. Appellant noted that he revised and placed internal controls on the credit card program, wrote and instituted the travel card policy, developed and taught travel card training to each cardholder and conducted oversight on the programs. He also alleged stressful work conditions as a result of his work as TWA-800 coordinator, noting that he was responsible for packing up items for the largest accident reconstruction in history. Second, appellant alleged that he suffered stress as a result of lack of support, direction and information and because he had insufficient help. Specifically, he alleged that his efforts have not always been adequately supported and in several cases he has been thwarted in his efforts. Appellant alleged that management would either not provide information or constantly change the

information. For example, he noted that there were issues with the audit sheets when the employing establishment transferred that function without mentioning it to him, noted that the instructions on two new projects he received in February 2004 were not clear, alleged that there was little direction on the purchase card program and that there was a lack of direction on handling delinquencies. Appellant further noted that he would receive directions from more than one person and on other occasions would get a lack of direction. Third, he alleged that he suffered stress due to deadlines that were often impossible and unrealistic. Fourth, appellant alleged stress from too much work. Fifth, he alleged that he had stress from a lack of competency to do the job as the result of lack of training. Appellant noted that other employees received tuition benefits but that he had not had any tuition for the six years he had been with the employing establishment. He also noted that others had received leadership training and he had not. Appellant also alleged deficient training on Excel, delinquency reporting procedures and other computer programs. Finally, he made allegations of harassment and hostile work environment.

The employing establishment controverted appellant's claim, alleging that the actions alleged did not serve as a basis for appellant's emotional condition and that furthermore, the majority of issues raised by appellant in his statement have been mischaracterized, are not factual and do not rise to the level of compensable employment factors under FECA. It alleged that appellant's performance was deficient and that he was provided counseling and extremely detailed guidance, but that he failed to follow that guidance and, as a result, failed to improve. The employing establishment noted that appellant was given a Performance Improvement Plan (PIP) and given 60-calendar days to improve his performance, but that appellant failed to complete any of the tasks assigned to him while under the PIP and his removal was proposed on September 12, 2005. It noted that the first time appellant raised a medical condition as a cause of his deficient performance was on October 21, 2005, after his proposed removal. With regard to appellant's specific allegations, the employing establishment alleged that appellant's basic responsibilities were not particularly stressful and noted that, in the early years of appellant's tenure, he did successfully accomplish these tasks, but that beginning in 2002 his supervisors began to notice a deterioration in his level of performance in that appellant was failing to complete tasks timely or even to complete them at all and that when management responded by trying to assist him in correcting those deficiencies by structuring his work and setting deadlines for him, he reacted negatively to the assistance. The employing establishment noted that appellant's interactions with directors was not unique as the employing establishment was a small agency and that at least half of the office dealt directly with senior management in some capacities. It denied that appellant was asked to bring back financial accountability through audits and credit card programs, noting that this was a gross overstatement of his responsibilities and that although appellant assisted he did not develop training programs. The employing establishment also indicated that appellant was given adequate guidance and support, had no responsibility to conduct or coordinate audits, that the centralized monthly review of travel and purchase activities was not conceived by appellant and that travel audits had not been performed by appellant since at least 2002. It contended that many statements of appellant were not true. For example, the employing establishment asserted that he was always provided information and assistance he needed to complete his tasks, that appellant had no involvement with establishing relationships or decisions necessary with regard to travel voucher post audits and played no role in developing criteria or audit procedures. The employing establishment noted that the travel voucher post audit process had been a serious deficiency in appellant's performance for some

time and was documented in detail in his PIP and proposed removal. It noted that his role in the post audit process had never been more than to simply verify the findings of other agencies or to follow up with the traveler and collect any amount owed to the employing establishment and noted that management met with appellant multiple times and explained the process in detail. The employing establishment contends that, while transfer of the program may have caused stress, as appellant was against said transfer, this was not a compensable factor of employment. It noted that multiple extensions were given to him to prepare an acceptable transfer plan. The employing establishment noted that, when realignment of the Chief Financial Officer's (CFO's) office occurred on May 30, 2004, appellant was moved to direct supervision by William Mills, and that Mr. Mills tried to explain to appellant that he should be flexible enough to respond to everyone in his review chain and noted that some changes were made by Mr. Mills to improve efficiency and appellant seemed reluctant to adapt to such changes. It contended that appellant's supervisors had given him more than enough time to complete the duties and responsibilities of his position, that the deadlines set were reasonable and achievable and contended that his assertion that he needed additional staff was overstated as an employee of appellant's grade and experience should have been able to easily handle the tasks assigned. With regard to appellant's work habits, the employing establishment contended that appellant did not keep his files in proper order as a result of continuous poor work habits and neglect and that if he had worked extra hours he did so without approval. Appellant's involvement in the audit of the purchase card program was very limited and was made more labor intensive than it should have been by appellant. The employing establishment noted that his position did not require him to contact employees directly nor did he ever report to his supervisor that it created stress. It further contended that it had spent $5,314.00 on training appellant over the past five years and further noted that they approved four classes in 2005 but that appellant only registered for one of these classes and did not take advantage of opportunities to pursue online training. Finally, the employing establishment denies any instances of harassment or a hostile work environment.

In an undated "Character Reference," Evelyn Hemingway indicated that, although she is now retired, she worked for the employing establishment as an administrative assistant of the railroad division. She noted that during the years 2000 to 2005 she worked in a very hostile environment and filed several Equal Employment Opportunity discrimination complaints based on age, gender and retaliation. Ms. Hemingway stated that employees over 40 are targeted and pressure is applied to make them retire early and she alleged that appellant was a victim of this practice.

In letters dated October 17, 2005, June 1, 2006 and November 6, 2008, Charlotte Casey, a professional staff member on the Senate Commerce Committee, noted her support for the appeal of appellant's proposed termination. She noted that, although she did not work for the employing establishment, she worked with appellant as part of her duty as a Senate staff member and that she knew appellant professionally and personally for more than 20 years. Ms. Casey stated that, during his tenure with the employing establishment, appellant successfully managed three contracts to relocate the TWA Flight 800 accident wreckage. She believed that appellant was a model employee.

In an October 17, 2005 letter, James R. Finch, a former Director of Government, Public and Family Affairs at the employing establishment, also opposed appellant's proposed removal from the employing establishment. He indicated that he visited the TWA-800 accident and

viewed appellant's coordination of documentation of the move and packing the sea containers of the largest plane reconstruction in history. Mr. Finch noted that appellant was a vital asset to the employing establishment and that appellant developed the employing establishment's purchase card and travel card programs and that his efforts were an integral part in bringing back financial accountability to the employing establishment. He noted that he worked with appellant while he was on the CFO's management team and was the employing establishment card coordinator. Mr. Finch noted that appellant developed and provided both the purchase card and travel card training.

In an October 18, 2005 letter, Richard F. Healing noted that he had numerous professional dealings with appellant while he was a Board member at the employing establishment and that appellant's responsibility included the management and oversight of official government credit cards. He noted that appellant rightfully questioned an expenditure he made for gasoline and that appellant immediately resolved the issue upon receipt of an explanation with proof of business travel. Mr. Healing objected to appellant's proposed removal from service.

In an October 20, 2005 statement, the former chairman, Jim Hall, stated that, during his tenure, he found appellant to be diligent, hard working and effective. He noted that appellant was responsible for closing down the employing establishment's presence at Calverton and overseeing the preservation of vital TWA-800 documentation. Mr. Hall noted that, upon his return to headquarters, appellant was called upon to implement a new purchase and travel card for all the employees at the employing establishment.

In an October 20, 2005 letter, John Goglia indicated that he was a former Board member at the employing establishment and came to know appellant when he joined the employing establishment in 1999 as the TWA-800 coordinator. He noted that he interfaced with his special assistant on a daily basis and was the person most responsible for the successful closure of the employing establishment's multi-year use of the Calverton facility. Mr. Goglia indicated that appellant was professional and that the training procedures he developed to educate the Board members and employees of the employing establishment in the use of purchases and travel cards were very successful and recommended giving reconsideration to his removal.

Appellant submitted a June 6, 2006 statement by Russell G. Quimby, who indicated that he had worked at the employing establishment since May 1985, first met appellant in June 1990 and has known him well since September 1999, when he returned to Long Island, New York, to coordinate the TWA-800 accident investigation. Mr. Quimby stated that, upon appellant's return to the headquarters, he was assigned the task of helping to bring proper financial accountability practices to the employing establishment and he developed training programs for both employee purchases and travel cards and developed and wrote the employing establishment's policy with little assistance for directions. He noted that he took the purchase and travel card training classes developed and presented by appellant. Mr. Quimby noted that he worked with appellant on purchase card charges using on-site accident investigations and post audits of his travel vouchers. He stated that appellant was a key member of the team tasked with bringing accepted financial accountability standards and practice to the employing establishment and that this resulted in two employees going to jail and the CFO retiring early. Mr. Quimby stated that, upon successful completion of the financial audit and major revisions in the accounting practices at the

employing establishment, appellant was seen by management as a disloyal turncoat and a threat to authority, noting that, as a result of the audit, the managing director and others were required to repay retention bonus monies. He discussed appellant's transfer and noted that, after the transfer, appellant was the only person without an accounting background in the accounting division, that the transfer was difficult and stressful on appellant, that appellant had no clearly delineated supervisor and that he received contradictory instructions. Mr. Quimby noted that, after the transfer, management made several specific efforts to alienate appellant through overwork, workplace isolation, conflicting direction and lack of recourse and lack of accomplishment recognition.

By decision dated August 21, 2006, OWCP denied appellant's claim for compensation, finding that appellant had not experienced an injury in the performance of duty.

On September 14, 2006 appellant requested an oral hearing before an OWCP hearing representative. At the hearing held on December 12, 2007, he testified that he would review at least once a month about 20 travel cards and 10 purchase cards for questionable charges. Appellant noted that dealing with e-mails and deleting them overwhelmed him. He stated that he began having problems at work with prioritization and organization towards the end of 2004 and that prior to that he had a problem but still got excellent ratings. Appellant testified that for a time he had three supervisors. Appellant's attorney argued that appellant's job was stressful because he was essentially a collector, that he had insufficient help, that he had trouble working on the computer, had improper training, disagreed with the employing establishment's assertion with regard to training expense and that missing deadlines and audits were stressful. He argued that, if the employing establishment argued that appellant's issues were caused by his lack of organization, this was still a work factor.

After the hearing, appellant submitted a supplemental statement dated January 9, 2008 by Mr. Quimby who indicated that when appellant returned to the employing establishment it was probably at one of its lowest points with regard to financial accountability and appellant was assigned the task of helping to bring financial accountability to the employing establishment. He stated that appellant persisted in changing the attitudes and managers from a former abusive "rapid draft" system to a system of financial accountability. Mr. Quimby indicated that appellant wrote and presented the training both at headquarters and in the field office. He noted that he continued to have close contact with appellant until 2005. Mr. Quimby stated that over the years he discussed several times the lack of support, direction, training and information and the stress of deadlines and insufficient help.

In a January 25, 2008 declaration, Edward Brown indicated that he was the division chief of computer services and that he tried to assist appellant with computer issues. He explained that appellant's system operated without problem, but that there was an issue with appellant not deleting e-mails and that appellant was inconsistent in the way he would file similar types of e-mails.

In another January 25, 2008 declaration, Mr. Mills indicated that he was the chief of the accounting division and OWCP of the CFO and that appellant was reassigned to his division on or about May 30, 2004 following a reorganization of OWCP of CFO. He stated that at no time did appellant have three first-line supervisors. Mr. Mills noted that, after the transition period, he

assumed full responsibility for supervising appellant in early November 2004. He noted that, prior to a safety inspection, he ordered appellant to correct safety violations with regard to boxes and papers in his office, but that this task was not stressful. Mr. Mills indicated that appellant's workload was modest and required monthly review of Citibank transaction reports, monthly delinquency report follow-up, resolving cardholder problems, processing card applications, travel voucher post audit follow-up, airline transaction reports, Federal Managers Financial Integrity Act review, drafting a voucher post audit operations bulletin and transition plan for purchase card operations. He noted that appellant's responsibility was to design and maintain the system of checks and balances to ensure that necessary controls provided reasonable assurance that the employing establishment assets were protected from waste, fraud, abuse and mismanagement, but that he was not charged with protecting the programs but rather for monitoring the procedures to ensure they were being followed. Mr. Mills noted that, in review of credit card charges, appellant's role was not to ask for payment, but rather to obtain further information to clarify why an amount was charged. He contended that appellant had ample time for his assignments. Mr. Mills stated that appellant was in no way involved in the discovery of fraud nor in the decision to expand the purchase card programs and terminate the rapid draft program. With regard to the computer issues, he noted that the problem was that appellant was not automatically deleting his old e-mails. Mr. Mills contended that he gave appellant every opportunity to attend appropriate training and that he encouraged appellant to take as much on-line computer training as he desired.

By decision dated February 25, 2008, the hearing representative affirmed the August 21, 2006 decision.

By letter dated November 12, 2008, appellant requested reconsideration.

By decision dated June 23, 2009, OWCP declined to review the merits of the case. Appellant appealed to this Board and, by decision dated July 19, 2010, the Board found that OWCP had improperly denied appellant's request for merit review. The Board noted that, as OWCP delayed issuing its decision until over 90 days after appellant's requested reconsideration and that as this denied appellant his right to an appeal on the merits, OWCP should have conducted a merit review and the case was remanded for OWCP to conduct a merit review.[4]

By decision dated October 26, 2010, OWCP denied modification of its earlier decision.

LEGAL PRECEDENT

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,[5] the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under FECA.[6] There are situations where an injury or

[4] Docket No. 09-2105 (issued July 19, 2010).

[5] 28 ECAB 125 (1976)

[6] 5 U.S.C. §§ 8101-8193.

illness has some connection with the employment but nevertheless does not come within coverage under FECA.[7] When an employee experiences emotional stress in carrying out his or her employment duties and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his or her emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of the work.[8] In contrast, a disabling condition resulting from an employee's feelings of job insecurity *per se* is not sufficient to constitute a personal injury sustained in the performance of duty within the meaning of FECA. Thus disability is not covered when it results from an employee's fear of a reduction-in-force, nor is disability covered when it results from such factors as an employee's frustration in not being permitted to work in a particular environment or to hold a particular position.[9]

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.[10] Where the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.[11] A claimant must support his or her allegations with probative and reliable evidence. Personal perceptions alone are insufficient to establish an employment-related emotional condition.[12]

If a claimant does implicate a factor of employment in an emotional condition case, OWCP should then determine whether the evidence of record substantiates those factors. When the matter asserted is a compensable factor of employment and the evidence of the matter establishes the truth of the matter asserted, OWCP must base its decision on an analysis of the medical evidence.[13]

ANALYSIS

Appellant claimed that he suffered from an emotional condition causally related to various factors of his employment. The Board must initially review whether the claimed incidents or activities constitute compensable factors under the provisions of FECA. The Board finds that appellant has failed to establish any compensable factors of employment.

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[7] *See Robert W. Johns*, 51 ECAB 136 (1999).

[8] *Cutler, supra* note 5.

[9] *Id.*

[10] *Charles D. Edwards*, 55 ECAB 258 (2004).

[11] *Kim Nguyen*, 53 ECAB 127 (2001). *See Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

[12] *Roger Williams*, 52 ECA 468 (2001).

[13] *L.Q.*, Docket No. 11-66 (issued September 28, 2011); *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

As stated previously, when an employee experiences emotional stress in carrying out his or her employment duties and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. These are considered *Cutler* factors.[14] When the matter asserted is a compensable factor of employment, and the evidence of record establishes the truth of the matter asserted, the decision must then be decided on an analysis of the medical evidence of record.[15]

In this case, appellant has generally alleged that the high visibility of his position, the importance of his role within the employing establishment and the overwhelming work associated with his position were responsible for his emotional condition. Accordingly, the Board must review these specific allegations to determine their factual accuracy.

A careful review of the documents filed in this case, including statements by appellant, briefs filed by appellant's representative, statements of coworkers, and briefs and statements filed by the employing establishment, the Board has determined that appellant has failed to establish the allegations. Appellant's allegations of high visibility of his position, the importance of his role within the employing establishment and the overwhelming work associated with his position were specifically denied by the employing establishment. At the outset, it noted that none of appellant's allegations were ever brought to the employing establishment's attention until after appellant was provided a notice of proposed removal from federal service. This was despite the fact that appellant had failed PIP at various times prior to the proposed suspension.

As to the specific allegations, the employing establishment categorically denied each and every allegation. In support of the denial, it submitted a statement of one of appellant's direct supervisors (Mr. Mills) who knew appellant's role in the organization and was knowledgeable of his duties. The employing establishment noted that it was small (410 employees) and that it was not uncommon for employees, especially at appellant's GS-14 grade level, to interact with different levels of the employing establishment. It further claimed that appellant had exaggerated the extent of his involvement with the duties of his job, such as the TWA-800 accident reconstruction and the extent of his role with overseeing official government credit cards, developing an entire training course and being instrumental in saving the Federal Government some four to five million.

In support of appellant's position, he submitted statements of friends, coworkers and former Board members of the employing establishment (Mr. Finch, Mr. Healing, Mr. Hall, Mr. Goglia and Mr. Quimby). Although these were generally supportive that appellant was engaged in an aspect of the duties he claimed, none had first-hand knowledge of his actual assigned duties to dispute the employing establishment's position. These statements were favorable to him generally but were not specific as to time and place. Appellant's arguments on brief, while thorough and detailed, do not establish the accuracy of the allegations. Accordingly,

[14] *Supra* note 5.

[15] *Norma L. Blank, supra* note 13.

the Board finds that appellant has failed to factually establish any compensable employment factor based on the carrying out of his regular work duties.[16]

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.[17] Where the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.[18] Many of the factors alleged by appellant concern the assignment of his work. For example, appellant made allegations that he had too many supervisors at one time, that he was given unclear instructions or too little instructions, that he worked on high profile cases, that he dealt with all layers of employees, that management would constantly change instructions. Complaints about the manner in which a supervisor performs his or her duties or the manner in which he or she exercises discretion generally fall outside the scope of coverage provided by FECA. This principle recognizes that a supervisor or manager in general must be allowed to perform his or her duties and employees will, at times, dislike the actions taken.[19] Mere disagreement or dislike of a supervisory or managerial action will not be compensable, absent evidence of error or abuse.[20] Furthermore, appellant alleged that management-assigned deadlines were unrealistic and that he did not have adequate assistance. These allegations are not supported by the record.[21] The employing establishment denied that appellant's deadlines were unrealistic and contended that the deadlines were extended several times to accommodate appellant. The employing establishment and Mr. Mills both dispute that appellant had too many supervisors and that, when concerns were noted, some changes were made to improve appellant's efficiency but appellant seemed reluctant to adapt to such changes. The employing establishment also alleged that appellant's assertion that he needed additional staff was overstated as an employee of appellant's grade and experience should have been able to easily handle the tasks assigned. The Board further notes that many of appellant's allegations concern the time when he was transferred from one branch to another. The employing establishment noted that appellant was unhappy with that change. These represent frustrations from not being permitted to work in a particular environment or to hold a particular position and are not compensable.[22] The record has been reviewed to determine whether there was any error or abuse in the implementation of the PIPs or in the removal. The record reflects that the Merit Systems Protection Board affirmed the removal of appellant from the agency. There is no other evidence of record to establish that the employing establishment acted abusively with regard to appellant.

[16] *See generally Ruth C. Borden*, 43 ECAB 146 (1991).

[17] *Charles D. Edwards*, *supra* note 10.

[18] *Kim Nguyen*, *supra* note 11. *See Thomas D. McEuen*, *supra* note 11.

[19] *T.G.*, 58 ECAB 189 (2006).

[20] *Id.*

[21] *See M.M.*, Docket No. 06-998 (issued August 28, 2006). *See also Donney T. Drennon-Gala*, 56 ECAB 469 (2005) (assignment of work is an administrative function of the employing establishment).

[22] *C.S.*, Docket No. 10-2266 (issued September 30, 2011); *Cyndia R. Harrill*, 55 ECAB 522, 529 (2004).

Appellant alleged that he was not properly trained. His allegations concern training for conducting his job and training for working on the computer. Appellant's allegations are controverted by the employing establishment, who noted that appellant was authorized for adequate training and did not utilize all the training opportunities provided or approved by the employing establishment. The employing establishment also contended that appellant's problems with the computer did not revolve around training but rather around his failure to delete old e-mails. In a statement by Mr. Brown, the division chief of computer services, he noted that he tried to assist appellant with his computer issues but noted that appellant's system operated without a problem. Any problem with his computer was due to appellant's failure to properly delete or file his e-mails. Accordingly, there is no evidence that the employing establishment acted abusively with regard to these matters. These allegations with regard to training are unrelated to appellant's regular or specially assigned work duties and do not generally fall within the coverage of FECA.[23]

Appellant alleged that his emotional condition was caused by the stress and pain stemming from two employment-related injuries, for which he filed claims in separate cases. Initially, the Board notes that matters related to the actual processing of compensation claims bear no relation to appellant's day-to-day or specially assigned duties and are an administrative function of the employer and not a duty of the employee.[24] Further, any claim for a consequential emotional condition arising out of an accepted work condition should be filed with the original injury claim.[25]

Appellant made allegations of harassment and a hostile work environment. Vague or general allegations of perceived harassment, abuse or difficulty arising in the employment is insufficient to give rise to compensability under FECA.[26] Appellant submitted in support of his claim affidavits by Ms. Casey discussing the conditions of appellant's work environment. However, Ms. Casey did not work with appellant and many of her statements appear to be based on appellant's statements to her with regard to his work environment. Accordingly, her affidavits are not entitled to great weight. Furthermore the statement of Ms. Hemingway is equally deficient. Ms. Hemingway indicated generally that employees over 40 were targeted and pressured to retire early; but these statements are too vague to be helpful to appellant's claim. For these reasons, appellant has not submitted sufficient evidence to support his claims of harassment.

[23] *R.S.*, Docket No. 10-2221 (issued August 19, 2011).

[24] *D.P.*, Docket No. 10-1755 (issued March 24, 2011); *David C. Lindsey, Jr.*, 56 ECAB 268 (2005).

[25] The general rule respecting consequential injuries is that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from that injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause, which is attributable to the employees own intentional conduct. *S.S.*, 59 ECAB 315 (2008).

[26] *R.P.*, Docket No. 08-1064 (issued November 26, 2008).

CONCLUSION

The Board finds that appellant has failed to establish any compensable work factors and that OWCP properly denied his claim.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 26, 2010 is affirmed.

Issued: September 5, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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