



became aware of his condition or illness on June 26, 2005 and realized that it resulted from his employment on April 5, 2012. Appellant did not stop work.<sup>2</sup>

In an attached statement, appellant detailed numerous work factors and incidents that he alleged contributed to his claimed condition. He described an April 5, 2012 meeting with Lieutenant Colonel (LTC) Michael Wynn. Appellant stated that LTC Wynn came into his office without asking any questions, gave him a written counseling statement, charged him with not following verbal orders and violating hospital by-laws by not submitting his credentials, and threatened disciplinary action. When appellant advised LTC Wynn that he had contacted Col. Bator, LTC Wynn became angry and yelled at him. He further claimed that he was subject to harassment at work and had stress headaches. Appellant related that he had previously reported headaches caused by noxious fumes due to the ventilation in a Food and Drug Administration building. He also noted that he filed a hostile work complaint with the EEO regarding working conditions under LTC Wynn and explained that he had too much work and requested a modified schedule from Command, but it was denied.

The employing establishment controverted appellant's claim and noted that he was not employed with the employing establishment in June 2005 when he claimed that he first became aware of his disease. It also stated that LTC Wynn only spoke to appellant during scheduled meetings. The employing establishment noted that appellant repeatedly failed to follow directions and direct orders.

By letter dated May 3, 2012, OWCP informed appellant that the evidence submitted was insufficient to establish his claim. Appellant was advised as to the medical and factual evidence required to support his claim and was given 30 days to provide such information. OWCP also sent a similar letter to the employing establishment and requested additional evidence.

In a May 11, 2012 e-mail, LTC Charles Clintwood stated that the work of an MEB physician was far from stressful. He noted that in other outpatient clinics providers were expected to see over 20 cases per day, but MEB providers saw an average of two patients per day with a maximum of three patients per day. LTC Clintwood further explained that there were no physically demanding requirements for their MEB physicians since they did not physically examine patients but interviewed the patient, reviewed the records, and typed a summary of the problem. He reported that the environment at the employing establishment was calm, sedate, collegial, and supportive. LTC Clintwood stated that, despite this calm environment, he spent an inordinate amount of time answering appellant's questions in multiple training sessions and weekly provider meetings. He noted that they reduced appellant's workload below the minimum expected production schedule on a temporary basis because of his ongoing and repeated complaints of not being able to keep up. LTC Clintwood stated that during weekly meetings appellant aggressively dominated the discussions, talked over other staff, and rehashed the same

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<sup>2</sup> As appellant continued to be employed by the employing establishment after he was aware of his emotional condition and was exposed to the work factors he alleged caused or contributed to his condition, his April 11, 2012 claim was timely filed. *See Larry Young*, 52 ECAB 264 (2001). Although appellant did not stop work or claim disability, the record reveals that the employing establishment proposed to suspend him in June 2012 for disciplinary action. Under a Negotiated Settlement Agreement with the Equal Employment Opportunity (EEO) Commission dated September 17, 2012, the employing establishment agreed to cancel the proposed suspension and remove appellant from federal service for medical inability to work.

complaints week after week. He also noted that appellant began submitting frequent leave requests for ordinary leave and leave without pay, his charting began falling behind, and his cases became delinquent. LTC Clintwood reported that he stopped sharing certain tasks with appellant, such as psychiatry diagnoses, because appellant chose not to complete them.

The employing establishment submitted a position description of a supervisory physician for the MEB.

In a May 3, 2012 report, Dr. Thomas Martens, a Board-certified family practitioner, related that appellant was employed as an MEB physician at the employing establishment and noted that he was evaluated for complaints of stress and headaches resulting from his work-related activities. Appellant explained that he was required to evaluate three patients and write three narrative summaries (NARSUM's) per day and keep his certifications up to date. Dr. Martens stated that appellant's various requests for a modified schedule of two NARSUMs and two patients per day had been met with resistance and disciplinary actions, which resulted in stress and migraines secondary to work-related environment. He reviewed appellant's history and diagnosed acute stress disorder secondary to work environment, depressive symptoms secondary to psychological factors, tension headache secondary to work-related factors, and sleep disturbance secondary to work-related factors. Dr. Martens opined that appellant met all the criteria per FECA guidelines, including timely filing his claim, being an employee, fact of injury, performance of duty, and causal relationship. He concluded that appellant's disability was a direct result of the subsequent condition of his acute stress disorder, depressive symptoms, tension headaches, and sleep disturbance that developed due to his work-related injury.

In a May 31, 2012 therapy report, Tabitha Peterson, a licensed professional counselor, noted current diagnoses of panic attack, predominant disturbance of emotions, and other acute reactions to stress. She related appellant's complaints of panic, anxiety, and stress, trouble sleeping, and ruminating about his unresolved work situation. Ms. Peterson noted that he provided more specific dates about when his panic attacks occurred and stated that he had several attacks the week of May 1, 2012. Objective examination revealed anxiety, cognitive distortions, cognitive reframing, depression, and rapport building.

In a May 31, 2012 work capacity evaluation, Ms. Peterson stated that appellant was experiencing significant emotional distress, mild-to-moderate panic attacks, anxiety, depression, and diagnosed with acute stress disorder related to work stress. She reported that his stress reaction stemmed from reports of confrontation, threats of losing his employment, physical discomforts associated with extended periods of sitting, and concerns about doing his job well. Ms. Peterson indicated that appellant was not competent to work eight hours a day but could perform his regular duties at a slower, lighter pace with reassignment to a different supervisor.

Appellant submitted various duty status reports dated May 3 to August 16, 2012 with illegible signatures which indicated that he suffered from stress and headaches from working in a hostile work environment.

In a decision dated October 17, 2012, OWCP denied appellant's emotional condition claim finding that the incidents alleged to have caused his emotional condition were administrative matters and not compensable factors of employment under FECA.

In an appeal request form received on April 1, 2013, appellant requested reconsideration. He resubmitted Dr. Martens' May 3, 2012 report and various work capacity evaluation forms.

In a January 22, 2012 report, Dr. Gilbert Blancarte, a Board-certified internist, stated that appellant became aware of stress and headaches while required to evaluate three patients and write up three NARSUMs per day and keep physician certifications up to date. He opined that appellant's symptoms of tension headaches, acute stress disorder, sleep disturbance, and depressive symptoms were a result of him performing his regular assigned duties. Dr. Blancarte noted that appellant was issued a letter of warning as a result of being unable to complete three NARSUMs a day and keep his physician certifications up to date and suffered an emotional reaction directly traceable to the disciplinary action. He concluded that appellant suffered from acute stress disorder, depressive symptoms, tension headache, and sleep disturbance secondary to work-related factors while performing his regular daily assigned duties, which was a compensable factor of employment.

By decision dated May 29, 2013, OWCP denied modification of the October 17, 2012 denial decision finding that the alleged work factors were not compensable factors of employment.

On June 10, 2013 appellant requested reconsideration. He alleged that Dr. Blancarte and Dr. Martens' reports relating to his factual claims should be considered authority by him since he helped write the reconsideration request. Appellant provided a chronological list of events that he believed contributed to his emotional conditions. He also submitted his EEO settlement agreement.

Appellant provided various e-mails between himself and several supervisors dated May 15 to June 5, 2012 regarding arranging a meeting for reassignment, his credential application, various leave requests for sick leave or leave without pay, his request for temporary-duty location, and his request to limit his privileges to one to two patients and NARSUMs daily.

In a decision dated September 6, 2013, OWCP denied modification of OWCP's denial decisions finding that appellant had not established a compensable factor of employment.

On October 21, 2013 appellant submitted another request for reconsideration. He stated that he had previously submitted medical and e-mail documents that demonstrated he was asked to perform more medical examinations in eight hours than he was capable of performing, that his boss entered his office and called him a cheat and other names, that he was involuntarily reassigned, and that he was threatened with a loss of career and insubordination when he tried to appeal up the chain of command. Appellant also submitted additional e-mails between himself and his supervisors dated April 19 to May 1, 2012 regarding his suspension notice. He noted that he was backlogged in his work and requested assistance.

In an October 12, 2013 statement, Joyce Doncaster, Ph.D., noted that she worked at the MEB office at Fort Hood as a clinical psychologist along with appellant. She related that she witnessed the stress level present and explained that as clinicians in the MEB clinic they were responsible for conducting evaluations on soldiers who were going through the process to exit from the military for medical and/or mental health conditions. Dr. Doncaster stated that many of the soldiers had a wide range of medical issues, such as severe, chronic pain, and severe mental

health issues, anxiety, and depression. She noted that a majority of the soldiers were angry, hostile, and sometimes even threatening toward the clinicians. Dr. Doncaster reported that the stress level at the employing establishment was very high and there was constant pressure on the clinicians to move through the backlog of soldiers. She stated that they dealt with hostile soldiers every day, especially if they did not agree with the severity of the injury or the diagnosis. Dr. Doncaster related that appellant expressed his anxiety and stress to her on several occasions and she was aware that he was absent from work due to illness and headaches.

By decision dated October 29, 2013, OWCP denied modification of its prior decisions finding that appellant had not established a compensable factor of employment.

On November 8, 2013 appellant submitted a request for reconsideration. He alleged that as a consequence of his supervisors' failure to accommodate his requests and delay in filing workers' compensation forms he was being treated for two workers' compensation injuries to his neck, back, and shoulders which all contributed to pain, anxiety, and stress.

In an October 17, 2013 statement, Captain (Capt.) Theresa Long, M.D. (a coworker), reported that she and appellant were both under daily stress from the workload and working conditions at the employing establishment. She explained that physicians were often required to complete NARSUMs in a period of time or at a pace that was insufficient to ensure thorough and accurate standards. Capt. Long stated that some soldiers exhibited signs of post-traumatic stress disorder (PTSD), pain, or other stress from the MEB process and that emotions could run high when medical examination findings did not correlate with the soldier's desired outcome. She reported that she witnessed appellant become more and more distressed over his inability to handle three cases a day and the increasing number of cases that were falling behind after LTC Wynn consistently denied his request to do two cases a day. Capt. Long described two incidents where LTC Wynn stated that he hoped appellant would go home and shoot himself in the head and told everyone what a worthless person appellant was.

In a decision dated January 14, 2014, OWCP denied modification of OWCP's prior denial decisions finding that appellant had not established a compensable factor of employment.

On February 7, 2014 appellant submitted a request for reconsideration. He contended that the statements by Capt. Long and Dr. Doncaster document the stressful environment, hostile supervisor, and overworked conditions he experienced. Appellant further alleged that his previously submitted psychological testing and reports establish that his stress, anxiety, and headaches were closely interconnected.

Appellant submitted excerpts of a transcript from an April 19, 2013 fact-finding interview of Carolyn Hall, a health systems specialist administrator for MEB, by the employing establishment's Investigations and Resolutions Division.

In a February 5, 2013 report, Dr. Robert H. Gordon, a clinical forensic psychologist, related appellant's complaints of neck pain, back pain, and anxiety. He noted that appellant was very distressed when talking about his grievances toward his former employer. Appellant stated that he worked in a hostile work environment; felt stressed by his high workload; that his employer would not reassign him despite numerous requests; and experienced difficulties with recredentialing due to alleged malfeasance by command. Dr. Gordon related that appellant

experienced panic attacks with impending doom, chest pain, and shortness of breath. He reported that appellant's judgment, remote memory, and general fund of knowledge was satisfactory. Dr. Gordon stated that appellant's concentration and short-term memory were fair. He diagnosed generalized anxiety disorder and opined that appellant's symptoms were unlikely to change because appellant had these symptoms for a long period of time.

By decision dated February 26, 2014, OWCP denied modification of OWCP's prior denial decisions. It found that appellant failed to establish that certain alleged incidents had occurred as described and failed to establish a compensable factor of employment.

### **LEGAL PRECEDENT**

To establish a claim that he or she sustained an emotional or stress-related condition in the performance of duty, an employee must submit: (1) factual evidence identifying the employment factors or incidents alleged to have caused or contributed to the condition; (2) medical evidence establishing that he or she has an emotional or stress-related disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the condition.<sup>3</sup> If a claimant implicates a factor of employment, OWCP should determine whether the evidence of record substantiates that factor. Allegations alone are insufficient to establish a factual basis for an emotional condition claim and must be supported with probative and reliable evidence. If a compensable factor of employment is established, OWCP must then base its decision on an analysis of the medical evidence.<sup>4</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to a claimant's employment.<sup>5</sup> There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation.<sup>6</sup> In the case of *Lillian Cutler*,<sup>7</sup> the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition under FECA. Where the disability results from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.<sup>8</sup> On the other hand, when a disability results from a fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or hold a particular position such disability falls outside FECA's coverage because they are found not to have arisen out of employment.<sup>9</sup>

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<sup>3</sup> V.W., 58 ECAB 428 (2007); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>4</sup> G.S., Docket No. 09-764 (issued December 18, 2009).

<sup>5</sup> L.D., 58 ECAB 344 (2007); *Robert Breeden*, 57 ECAB 622 (2006).

<sup>6</sup> A.K., 58 ECAB 119 (2006); *David Apgar*, 57 ECAB 137 (2005).

<sup>7</sup> 28 ECAB 125 (1976).

<sup>8</sup> *Supra* note 7; see also *Trudy A. Scott*, 52 ECAB 309 (2001).

<sup>9</sup> *William E. Seare*, 47 ECAB 663 (1996).

## ANALYSIS

Appellant attributed his tension headaches, stress and anxiety to several incidents and activities that occurred while he worked at the employing establishment. OWCP denied his claim finding that he failed to establish a compensable factor of employment. As a preliminary matter, the Board must review whether the alleged incidents are covered employment factors under FECA.<sup>10</sup>

Appellant alleged that he experienced stress and anxiety because of overwork. He claimed he was unable to meet the position requirements of evaluating three patients, completing three NARSUMs daily, and keeping his physician certifications up to date. Appellant contended that his various requests for a modified schedule were met with resistance and disciplinary actions. The Board has held that emotional reactions to situations in which an employee is trying to meet his or her position requirements are compensable.<sup>11</sup> The Board finds, however, that appellant's allegations of overwork are not supported by the evidence of record. In a May 11, 2012 e-mail, LTC Clintwood stated that the workload for MEB physicians was less strenuous than other clinic providers. He explained that most other outpatient providers were expected to see over 20 cases per day, but MEB providers saw an average of two to three patients per day. LTC Clintwood further reported that, when appellant had trouble meeting his requirements, his workload was reduced to below the minimum expected production schedule on a temporary basis. The Board notes that LTC Clintwood's statement contradicted appellant's allegations that he was overworked and that the employing establishment refused to accommodate his requests for a lighter workload. Accordingly, the Board finds the evidence insufficient to establish appellant's allegations of overwork.<sup>12</sup>

Appellant has also objected to several managerial actions, including involuntary assignment to the MEB; inability to have his credentials recertified; suspension notices; denial of numerous leave requests; denial of requests for additional training and transfer to a different worksite; and denial of a modified work schedule. The Board has held that workspace transfers,<sup>13</sup> leave matters,<sup>14</sup> accommodation requests,<sup>15</sup> disciplinary actions,<sup>16</sup> and criticism and reprimands,<sup>17</sup> are administrative and personnel matters. Administrative and personnel matters, although generally related to employment, are administrative functions of the employer rather

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<sup>10</sup> See *P.E.*, Docket No. 14-102 (issued April 1, 2014).

<sup>11</sup> See *supra* note 7.

<sup>12</sup> See *L.A.*, Docket No. 13-1544 (issued September 23, 2014) (the Board found that various statements by appellant's supervisors that claimant's workload was manageable, that she received assistance as requested, and did not receive any new cases contradicted claimant's allegations and failed to establish a compensable factor of employment).

<sup>13</sup> *Dan F. Bennett*, Docket No. 05-60 (issued March 7, 2005).

<sup>14</sup> *J.C.*, 58 ECAB 594 (2007).

<sup>15</sup> *P.K.*, Docket No. 12-1640 (issued May 13, 2013).

<sup>16</sup> *Supra* note 4.

<sup>17</sup> *Roger W. Robinson*, 54 ECAB 846 (2003).

than the regular or specially-assigned work duties of the employee and are not covered under FECA.<sup>18</sup>

For an administrative or personnel matter to be considered a compensable factor of employment, the evidence must establish error or abuse on the part of the employer.<sup>19</sup> The employee bears the burden of proof to establish administrative error or abuse.<sup>20</sup> In this case, appellant has alleged administrative error when LTC Wynn accused him of being AWOL and threatened to cancel his pay when he used sick leave. He has contended that a May 30, 2012 e-mail is evidence of such error. The record contains a May 31, 2012 e-mail from a Gayle Johnson to LTC Wynn which detailed the guidelines for entitlement to leave under the Family Medical Leave Act (FMLA). Ms. Johnson noted that since appellant invoked FMLA leave he had to meet the guidelines and medical certifications. In a June 5, 2012 e-mail, LTC Wynn informed appellant that his sick leave requests were received and that the recommendations by Ms. Johnson were followed. The Board notes, therefore, that the record does not support appellant's contention of administrative error or abuse. On the contrary, LTC Wynn's June 5, 2012 e-mail has demonstrated that he sought to follow the appropriate guidelines for FMLA leave as requested by appellant. Accordingly, the Board finds that appellant did not establish administrative error or abuse.

On appeal, appellant reiterates the incidents described above and generally references several e-mails as evidence that management refused to grant his requests for leave, work accommodations, and additional training, and to meet with him regarding these issues. He specifically mentions an April 16, 2012 e-mail, which instructed him to meet a supervisor for mandatory management reassignment to the MEB and an April 17, 2012 e-mail, which demonstrated that he met with the Commander but he did not sign off for appellant to remain credentialed, as evidence of the stress he experienced as a result of his supervisors' actions. Appellant further addresses several other e-mail documents as evidence that his supervisors ordered him to write legal memorandums on soldiers that he had not seen and reprimanded him when he took extra time to help a soldier stay on active duty. The Board has found, however, that an employee's complaints concerning the manner in which a supervisor performs his duties as a supervisor or the manner in which a supervisor exercises his supervisory discretion fall, as a rule, is outside the scope of coverage provided by FECA.<sup>21</sup> This principle recognizes that a supervisor or manager in general must be allowed to perform his or her duties, which employees will at times dislike the actions taken, but that mere disagreement or dislike of a supervisory or management action is not compensable.<sup>22</sup>

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<sup>18</sup> *M.C.*, Docket No. 10-1628 (issued June 8, 2011); *Matilda R. Wyatt*, 52 ECAB 421 (2001).

<sup>19</sup> *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

<sup>20</sup> *M.W.*, Docket No. 09-2036 (issued June 2, 2010).

<sup>21</sup> *T.G.*, 58 ECAB 189 (2006); *Marguerite J. Toland*, 52 ECAB 294 (2001).

<sup>22</sup> *See Barbara J. Latham*, 53 ECAB 316 (2002); *see also Peter D. Butt, Jr.*, 56 ECAB 117 (2004).

The Board notes that the assignment of work,<sup>23</sup> denial of leave and accommodation requests,<sup>24</sup> and criticisms and reprimands,<sup>25</sup> are administrative functions and the manner in which a supervisor exercises his or her discretion falls outside the coverage of FECA. Although the employing establishment and appellant reached a settlement agreement reducing his suspension, there was no evidence of admission of wrongdoing by the employing establishment.<sup>26</sup> Because appellant has not provided sufficient evidence to establish administrative error or abuse regarding these issues, the Board finds that these incidents are not compensable factors of employment under FECA.

Appellant also claimed that management subjected him to a hostile work environment. For harassment or discrimination to give rise to a compensable disability, there must be evidence which establishes that the acts alleged or implicated by the employee did, in fact, occur.<sup>27</sup> Mere perceptions of harassment or discrimination are not compensable under FECA.<sup>28</sup> A claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence.<sup>29</sup> Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred.<sup>30</sup> A claimant must establish a factual basis for his or her allegations of harassment or discrimination with probative and reliable evidence.<sup>31</sup>

The Board finds that the evidence of record is not sufficient to support appellant's allegations of a hostile work environment. Appellant specifically mentioned an April 5, 2012 incident when LTC Wynn entered his office, gave him a written counseling statement, charged him with not following verbal orders and violating hospital by-laws, threatened disciplinary action, became angry, and yelled at him. The Board notes, however, that appellant provided no corroborating evidence or witness statements from people to establish that the April 5, 2012 incident occurred. On the contrary, the employing establishment has stated that LTC Wynn only spoke to appellant during scheduled meetings. There is no corroborating evidence that LTC Wynn entered appellant's office, threatened disciplinary action, and yelled at him. Despite appellant's allegations, the record contains no other independent corroboration that this incident actually occurred as alleged.<sup>32</sup> While verbal altercations, when sufficiently detailed by the

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<sup>23</sup> *Donney T. Drennon-Gala*, 56 ECAB 469 (2005).

<sup>24</sup> *Supra* notes 13 and 14.

<sup>25</sup> *Supra* note 4.

<sup>26</sup> *Supra* note 2.

<sup>27</sup> *K.W.*, 59 ECAB 271 (2007); *Robert Breeden*, *supra* note 5.

<sup>28</sup> *M.D.*, 59 ECAB 211 (2007); *Robert G. Burns*, 57 ECAB 657 (2006).

<sup>29</sup> *J.F.*, 59 ECAB 331 (2008).

<sup>30</sup> *Supra* note 4; *Ronald K. Jablanski*, 56 ECAB 616 (2005).

<sup>31</sup> *Robert Breeden*, *supra* note 5; *Beverly R. Jones*, 55 ECAB 411 (2004).

<sup>32</sup> *See L.P.*, Docket No. 14-1224 (issued November 7, 2014) (the Board found that the claimant's allegations that she worked in a hostile work environment because her supervisor yelled at her and used profane language did not factually occur as the claimant did not provide any corroborating evidence that these events actually occurred).

claimant and supported by the evidence of record, may constitute factors of employment,<sup>33</sup> the Board finds that in this case, appellant has failed to submit sufficient evidence to corroborate that the alleged April 5, 2012 incident occurred as alleged.

Appellant also contended, and alleges again on appeal, that the letters by Capt. Long and Dr. Doncaster describe the stressful environment and hostile management under which he was forced to work. The Board notes that while both Dr. Doncaster and Capt. Long address the high stress level at the employing establishment, they attribute the stress to the environment of working with soldiers who struggled with a wide range of medical issues, including PTSD and other mental issues, not to the specific duties of appellant's job.<sup>34</sup>

While both employees reported that appellant appeared stressed or that they witnessed his anxiety, none of them actually witnessed any interaction between appellant and his supervisors or witnessed his supervisors yelling, threatening, or being disrespectful to appellant. The Board notes that while Capt. Long mentioned that LTC Wynn made comments that appellant was worthless; these statements alone do not establish any direct harassment or discrimination committed against appellant.<sup>35</sup> The record contains no other corroborating evidence from witnesses who also heard LTC Wynn make such comments nor is there evidence that the comments were made in appellant's presence. The Board has found that an emotional reaction to such a comment is considered to be self-generated and not to arise out of or in the course of employment.<sup>36</sup> The Board finds that Dr. Doncaster and Capt. Long's statements do not support appellant's allegations of a hostile work environment.

Appellant has reported, and points out again on appeal, that he filed grievances and EEO complaints and was involved in an EEO settlement regarding the hostile work environment at the employing establishment. The Board has found, however, that grievances and EEO complaints alone do not establish that unfair treatment occurred and that final establishment dispositions are not binding on issues raised under FECA.<sup>37</sup> The Board also notes that the September 17, 2012 settlement agreement contains no admission of guilt or any wrongdoing on the part of the employing establishment and thus, should not be construed as evidence of a hostile work environment.<sup>38</sup> Accordingly, the grievances and settlement agreement are insufficient to establish a hostile work environment as a compensable factor of employment.

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<sup>33</sup> *Mildred D. Thomas*, 42 ECAB 888 (1991).

<sup>34</sup> *See L.B.*, Docket No. 14-911 (issued September 3, 2014).

<sup>35</sup> *See R.S.*, Docket No. 12-1206 (issued October 25, 2012) (the Board determined that statements by coworkers which asserted that claimant was treated in a discriminatory matter but did not describe any specific instances were insufficient to establish any direct harassment or discrimination against the claimant).

<sup>36</sup> *See Mary A. Sisneros*, 46 ECAB 155 (1994).

<sup>37</sup> *See A.O.*, Docket No. 12-462 (issued July 26, 2012); *see also R.S.*, Docket No. 10-2221 (issued August 19, 2011).

<sup>38</sup> *Supra* note 2; *D.L.*, Docket No. 06-2018 (issued December 12, 2006).

The Board finds that appellant has failed to establish any compensable work factors.<sup>39</sup>

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 did not meet his burden of proof to establish an emotional condition in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 26, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 23, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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<sup>39</sup> Since appellant had not established a compensable factor of employment, a review of the medical evidence is unnecessary. *See Lori A. Facey*, 55 ECAB 217 (2004).